

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr KO Ryan Lap Yan (高立忻醫生)(Reg. No.: M13067)

Date of hearing: 12 February 2018 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS (Chairman)
Dr CHENG Chi-man
Mr YU Kwok-kuen, Harry
Mr WONG Hin-wing
Prof. CHAN Tak-cheung, Anthony

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Chris Howse of Messrs. Howse
Williams Bowers

Senior Assistant Law Officer (Acting) representing the Secretary: Mr William LIU

1. The amended charge against the Defendant, Dr KO Ryan Lap Yan, is :

“That in or about December 2013, he, being a registered medical practitioner, in respect of a television programme entitled “守護生命的故事” the 6th episode (“the Programme”), he sanctioned, acquiesced in or failed to take adequate steps to prevent the broadcast of the followings regarding himself in the Programme that “有 14 年心臟科經驗” which was incorrect or misleading.

In relation to the facts alleged, he has been guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 3 July 2001 to present. His name has been included in the Specialist Register under the Specialty of Cardiology since 5 March 2008.
3. The Defendant admits the factual particulars of the amended disciplinary charge. The Defendant also admits that he failed to take adequate steps to prevent the broadcast of the incorrect information in the Programme about his professional experience in cardiology.
4. According to the Defendant, he was invited by one Mr Chan sometime in around mid-2013, to take part in the filming of one of the episodes in the documentary series called “Guardian of Life” (“the Programme”). Mr Chan was a staff member of Television Broadcasts Limited (“TVB”) and he told the Defendant that the purpose of the Programme was to provide the public with general information on medical developments and treatments. The Defendant subsequently accepted the invitation to take part in the Programme on a *pro bono* basis and to speak about common heart conditions and new advances in cardiology.
5. According to the Defendant, Mr Chan never asked him about his professional experience in cardiology either before or during the filming of the Programme. Some time after filming the Programme, Mr Chan sent a draft document in Chinese to the Defendant for approval. The draft document contained the intended voice-over, the questions asked and the Defendant’s answers for sound recording of the Programme. However, the draft document did not show what captions or contents would be shown on screen in the final version.
6. Mr Chan and the Defendant subsequently met to go over the draft document. According to the Defendant, in reply to Mr Chan’s questions about his credentials, he specifically told Mr Chan that he graduated in 2000 and had served in the Hospital Authority for 9 years. The Defendant also replied to Mr Chan that he began to carry out cardiac catheterization procedures in 2006.
7. According to the Defendant, he had requested Mr Chan to let him review the Programme before it was aired. However, Mr Chan refused and he explained to the Defendant that it was not the policy of TVB to allow guests to review its TV programmes before airing. The Defendant then reminded Mr Chan to be very

careful to ensure none of the information to be shown in the final version of the Programme would be misleading.

8. The Programme was aired on 30 December 2013. One of the scenes in the Programme captured the Defendant walking in a corridor of the Hong Kong Adventist Hospital and a caption in Chinese appeared on the screen describing the Defendant as having 14 years' experience in cardiology and he started carrying out cardiac catheterization procedures in 2006.
9. The Medical Council subsequently received the present complaint against the Defendant on 6 January 2014.

Burden and Standard of Proof

10. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.
11. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine the amended disciplinary charge against the Defendant carefully.

Findings of the Medical Council

12. The Defendant admits the factual particulars of the amended disciplinary charge against him but it remains for us to consider and decide on the evidence whether he is guilty of misconduct in a professional respect.
13. Whilst it is appropriate for a doctor to take part in *bona fide* health education but he must ensure that any information provided by him (or anybody acting on his behalf or with his forbearance) to the public is accurate, factual, objectively verifiable and be presented in a balanced manner. The same principle applies to information about a doctor's professional services as well as his credentials. This

is because members of the public seeking medical services for themselves or their families need to know the professional experience of a doctor so that they can make an informed choice whether to consult him.

14. It is always a doctor's personal obligation to ensure that any information about his credentials would be accurate and not misleading. The Defendant ought to have foreseen that he was going to be introduced as a cardiologist in the Programme. Indeed, the Defendant also admitted that Mr Chan had specifically asked him about his credentials during their meeting after the filming of the Programme.
15. In our view, the Defendant's failure to take adequate steps to prevent incorrect information about his professional experience in cardiology be broadcast to the public has fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect as charged.

Sentencing

16. The Defendant has a clear disciplinary record.
17. In line with published policy, we shall give him credit for his frank admission and full cooperation throughout this inquiry.
18. Members of the public are likely to rely on the expertise and experience of the doctor in deciding whether to seek treatment from him. The way that the Defendant was introduced in the Programme clearly implied in our view that he specialized in cardiology for 14 years when in fact he was not. This was tantamount to unauthorized practice promotion which would serve to promote the professional advantage of the Defendant.
19. But then again, we accept the culpability of the Defendant lay in his complacency in not finding out from Mr Chan how he was going to be introduced as a cardiologist in the Programme. We also accept that the Defendant intended to provide health education to members of the public by taking part in the Programme which formed part of a documentary series for providing general information on medical developments and treatments.
20. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we order that the Defendant be reprimanded. We

need to emphasize that but for the special factual background of this case, any doctor who engages in unauthorized practice promotion would be dealt with by removal from the General Register for a short period with suspension of operation of the removal order, and in serious cases the removal order would take immediate effect.

Remarks

21. The Defendant's name is included in the Specialist Register under the Specialty of Cardiology. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

Prof. LAU Wan-yee, Joseph, SBS
Chairman,
The Medical Council of Hong Kong