

香港醫務委員會  
The Medical Council of Hong Kong

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr HUI Kim Ming Christopher (Reg. No.: M12921)

Date of hearing: 2 September 2022 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS  
(Chairperson of the Inquiry Panel)  
Dr CHEUNG Chin-pang  
Dr CHAN Pik-kei, Osburga  
Mr CHAN Wing-kai  
Ms CHUI Hoi-ye, Heidi

Legal Adviser: Mr Stanley NG

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

Government Counsel representing the Secretary: Mr Louis POON

1. The charges against the Defendant, Dr HUI Kim Ming Christopher, are:

“That, he, being a registered medical practitioner:

- (i) in or around January 2021, sanctioned, acquiesced in or failed to take adequate steps to prevent the use of a description or title, namely “呼吸系統科專科”, in an article with the title “吸煙增加感染肺炎球菌風險” published on 30 January 2021 in the Headline Daily, when his name was not included in the Specialist Register under the specialty of “Respiratory Medicine” at the material time; and/or

- (ii) in or around March 2021, sanctioned, acquiesced in or failed to take adequate steps to prevent the use of a description or title, namely “呼吸系統科”, on the website of “813 Medical Centre” ([http://www.medicalcentre813.com.hk/doctors/b5/k\\_m\\_hui3.htm](http://www.medicalcentre813.com.hk/doctors/b5/k_m_hui3.htm)), when his name was not included in the Specialist Register under the specialty of “Respiratory Medicine” at the material time.

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

### **Facts of the case**

2. The name of the Defendant has been included in the General Register from 2 January 2001 to the present. His name has been included in the Specialist Register under the Specialty of Respiratory Medicine since 7 April 2021.
3. On 24 March 2021, the Medical Council received a complaint via email that the Defendant had quoted himself the title resembling a “specialist in respiratory medicine” when he was not eligible to quote as such. The complainant provided two website links, namely a link to the website of Headline Daily and the link to the website of “813 Medical Centre” ([http://www.medicalcentre813.com.hk/doctors/b5/k\\_m\\_hui3.htm](http://www.medicalcentre813.com.hk/doctors/b5/k_m_hui3.htm)).
4. The website printout of the Headline Daily, which was printed out on 25 March 2021, is an article written in Chinese entitled “吸煙增加感染肺炎球菌風險”. As to the layout of the article, it shows at the top the publishing date being 30 January 2021, followed by a photograph of a male, then the main content, and at the bottom the reference to the description or title of the Defendant as “呼吸系統科專科 許建名醫生”. It also shows the article would remain effective for two years from the date of publication.
5. The website printout of 813 Medical Centre, which was printed out on 25 March 2021, shows the logo of 813 Medical Centre, the service information of the Defendant, which includes his name, description or title, qualifications, practicing address and contact telephone and fax numbers underneath the words “By Appointment”. As it appears, the Defendant was practising at 813 Medical Centre. Particular to note is that the description or title of the Defendant was referred to as “呼吸系統科”.

6. At all material times when the description or title of the Defendant was quoted as “呼吸系統科專科 許建名醫生” or “呼吸系統科” respectively in the websites of the Headline Daily and 813 Medical Centre, the Defendant’s name was not on the Specialist Register under the Specialty of Respiratory Medicine.

### **Burden and Standard of Proof**

7. We bear in mind that the burden of proof is always on the Secretary 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.
8. There is no doubt that the allegations against the Defendant here are serious. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine the disciplinary charges against him carefully.

### **Findings of the Inquiry Panel**

9. The Defendant admitted the factual particulars of both charges. However, it remains for us to consider and determine on the evidence whether he has been guilty of misconduct in a professional respect.
10. Under the Medical Registration Ordinance, Cap. 161, only doctors whose names are on the Specialist Register can lawfully use the specialist title, and it is a criminal offence for persons whose names are not on the Specialist Register to use the specialist title.
11. Every doctor must practise within the ambit of the law. That in itself imposes on every doctor a professional responsibility to acquaint himself with the law governing the practice of medicine. Failure to discharge that responsibility thus resulting in contravention of the legal requirements is a matter of professional misconduct.

12. The importance of quoting only the professional titles which a doctor is entitled to use is summarised by Fok JA in the case of Ng Kin Wai v. The Dental Council of Hong Kong (CACV 194/2010):-

*“Professional titles are important and members of the public are likely to rely on the expertise implied by those titles in choosing a dentist and submitting themselves to treatment by that dentist.”*

13. It is stipulated in the Code of Professional Conduct (2016 edition) (“Code”) that:

*“5.2.2.1 Practice promotion means publicity for promoting the professional services of a doctor, his practice or his group ... Practice promotion in this context will be interpreted by the Council in its broadest sense, and includes any means by which a doctor or his practice is publicized, in Hong Kong or elsewhere, by himself or anybody acting on his behalf or with his forbearance (including the failure to take adequate steps to prevent such publicity in circumstances which would call for caution), which objectively speaking constitutes promotion of his professional services, irrespective of whether he actually benefits from such publicity.*

*5.2.2.2 Practice promotion by individual doctors, or by anybody acting on their behalf or with their forbearance, to people who are not their patients is not permitted except to the extent allowed under section 5.2.3.*

...

*6.1 It is appropriate for a doctor to take part in bona fide health education activities, such as lectures and publications. However, he must not exploit such activities for promotion of his practice or to canvass for patients ...*

*6.2 A doctor should take reasonable steps to ensure that the published or broadcasted materials, either by their contents or the manner they are referred to, do not give the impression that the audience is encouraged to seek consultation or treatment from him or organizations with which he is associated ...*

...

- 7.1 *Only doctors on the Specialist Register are recognized as specialists, and can use the title of “specialist in a specialty”. A specialist can claim himself as a specialist only in the specialty under which he is included in the Specialist Register but not other specialties.*
- 7.2 *Doctors who are not on the Specialist Register cannot claim to be or hold themselves out as specialists. A non-specialist is not allowed to use any misleading description or title implying specialization in a particular area (irrespective of whether it is a recognized specialty) such as “doctor in dermatology” or “皮膚醫生”.*
14. At all material times, the Defendant was not on the Specialist Register under the Specialty of Respiratory Medicine and therefore he could not use or allow to be used any description or title showing or implying that he was a specialist under this specialty.
15. In his submissions to the Preliminary Investigation Committee, the Defendant claimed that the article which appeared on the website of Headline Daily was an academic interview and he was asked for an opinion. The Defendant said he had no control over its editorial release, timing or contents, and it was only upon being notified of the complaint that he became aware of the article, which he did not follow. The Defendant said he had no intention or need to misrepresent. As to the webpage of 813 Medical Centre, the Defendant said that he was unaware of the mistake on this page of the website.
16. The real question is whether the circumstances under which the Defendant accepted the invitation to give his opinion called for him to take reasonable steps to ensure that his professional title would not be misquoted. This same question goes to his service information published in the website of 813 Medical Centre, as to what he had done to ensure that his professional title would not be misquoted.
17. In our view, given the Defendant had knowledge that his opinion would be published on the webpage of Headline Daily, this should have called for him to exercise extra caution on how he might be introduced in the article. However, the Defendant had done nothing at all. It is no excuse for the Defendant to simply say that he had no control over its editorial release, timing or contents. As to his service information published on the webpage of 813 Medical Centre, again the Defendant had done nothing at all to ensure that his title would not be misquoted. It is no excuse to simply say that it was published there by mistake.

18. We are satisfied that the Defendant had in or around January 2021 failed to take adequate steps to prevent the use of a description or title, namely “呼吸系統科專科”, in an article with the title “吸煙增加感染肺炎球菌風險” published on 30 January 2021 in the Headline Daily, when his name was not included in the Specialist Register under the specialty of “Respiratory Medicine” at the material time.
19. We are also satisfied that the Defendant had in or around March 2021 failed to take adequate steps to prevent the use of a description or title, namely “呼吸系統科”, on the website of “813 Medical Centre” ([http://www.medicalcentre813.com.hk/doctors/b5/k\\_m\\_hui3.htm](http://www.medicalcentre813.com.hk/doctors/b5/k_m_hui3.htm)), when his name was not included in the Specialist Register under the specialty of “Respiratory Medicine” at the material time.
20. For these reasons, the Defendant has in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect under charges (i) and (ii).

### **Sentencing**

21. The Defendant has a clear disciplinary record.
22. In line with published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout these disciplinary proceedings.
23. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant but to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding its high standards and good reputation.
24. In June 2006, the Medical Council issued a clear warning that all future cases of practice promotion would be dealt with by removal from the General Register for a short period with suspension of the order, and in serious cases the removal order would take immediate effect. This warning has been repeated on a number of occasions.
25. We give full credit to the Defendant’s contribution to the medical profession and the community.

26. As regards the article published in Headline Daily, but for the misquoted title, we take into account that it had bona fide public educational value.
27. The Defendant accepted that he had full responsibility to ensure that his name would not be misquoted and he expressed his apologies unreservedly. We accept that the Defendant has learnt his lesson and he is remorseful. His breach was unintentional and there was no practice promotion or advertising element in this case.
28. In view that the Defendant's name has since 7 April 2021 been included in the Specialist Register under the Specialty of Respiratory Medicine, the risk of recurrence is almost nil.
29. Taking into consideration the nature and gravity of the disciplinary charges for which the Defendant was found guilty and what we have heard and read in mitigation, in respect of charges (i) and (ii), we make a global order that a warning letter be issued to the Defendant.

### **Remarks**

30. The name of the Defendant is included in the Specialist Register under the Specialty of Respiratory Medicine. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

Prof. LAU Wan-ye, Joseph, SBS  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong