

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr KWONG Siu Kee (鄭紹基醫生) (Reg. No.: M09680)

Date of hearing: 26 May 2021 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr Hon Pierre CHAN
Prof. LEUNG Kai-shun, Christopher
Mr MUI Cheuk-nang, Kenny
Mr HUI Cheuk-lun, Lawrence

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Woody CHANG of
Messrs. Mayer Brown

Government Counsel representing the Secretary: Miss Joycelyn HO

1. The charge against the Defendant, Dr KWONG Siu Kee, is:

“That in or about July to September 2018, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of promotional information in Shui Chuen O Plaza, which promoted his practice of Kwong’s Spring Medical Centre (泉源醫護中心).

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 26 September 1994 to the present. His name has never been included in the Specialist Register.

3. There is no dispute that the Defendant was at all material times practising at Shop 220 of Shui Chuen O Plaza (“the Plaza”), Shatin under the name of Kwong’s Spring Medical Centre.

4. Briefly stated, the Secretary of the Medical Council received on 13 September 2018 a letter from someone who called himself or herself as “A private doctor” complaining the Defendant of impermissible practice promotion.
5. Attached to this complaint letter were copies of photographs depicting:
 - (1) a visiting card of the Defendant’s medical practice; and
 - (2) posters for promotional offers in the Plaza for the months of July, August and September 2018 (“the Posters”).
6. There is no dispute that the following promotional offers were listed in the Posters under the name of the Defendant’s medical practice alongside with promotional offers by other business entities in the Plaza:
 - (1) for the month of July 2018, “...四價流感疫苗 現已接受預訂 符合疫苗資助計劃人士...費用全免，毋須額外收費...”;
 - (2) for the month of August 2018, “...兒童入學身體檢查優惠...”; and
 - (3) for the month of September 2018, “...免費健康檢查...兒童入學檢查優惠...”.

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 allegation against the Defendant here is a serious one. 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 charge against him carefully.

Findings of the Inquiry Panel

9. The Defendant admits the factual particulars of the disciplinary charge against him. However, it remains for us to consider and determine on the evidence before us whether the Defendant’s conduct has fallen below the standards expected of registered medical practitioners in Hong Kong.
10. It is clearly stated in the Code of Professional Conduct (2016 edition) (“the Code”) that:

“5.1.3 Persons seeking medical service for themselves or their families can nevertheless be particularly vulnerable to persuasive influence, and patients are entitled to protection from misleading advertisements.”

Practice promotion of doctors' medical services as if the provision of medical care were no more than a commercial activity is likely both to undermine public trust in the medical profession and, over time, to diminish the standard of medical care.

...

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.”

11. Whilst the Defendant is permitted under section 5.2.3 of the Code to display at the entrance of his clinic a service information note bearing the medical services provided by him, publication in the Posters, which were displayed in public area(s) of the Plaza, of the said promotional offers under the name of the Defendant's medical practice alongside with promotional offers by other business entities was no doubt in our view a form of impermissible practice promotion.
12. In sanctioning, acquiescing in or failing to take adequate steps to prevent the said publication of promotional information about his medical practice in the Plaza, the Defendant has in our view by his conduct in this case fallen below the standards expected of registered medical practitioners in Hong Kong.
13. We therefore find the Defendant guilty of misconduct in a professional respect as charged.

Sentencing

14. The Defendant has one previous disciplinary record back in 2018 relating to his wrongful act of turning off the oxygen supply to a patient without consulting the case doctors. We accept that the present case is of a different nature.
15. In line with our published policy, we shall give the Defendant credit in sentencing for his frank admission and full cooperation throughout these disciplinary proceedings.
16. We bear in mind that the primary 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.
17. In June 2006, the Medical Council issued a clear warning that all future cases of 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. The same warning was repeated in subsequent disciplinary decisions of the Medical Council.
18. We are particularly concerned with the length of time and manner in which the impermissible practice promotion was done in this case.

19. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we order that the Defendant's name be removed from the General Register for a period of 2 months. We further order that the operation of the removal order be suspended for a period of 12 months.

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