

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Chit Sun (黃哲旻醫生) (Reg. No.: M07217)

Date of hearing: 31 May 2022 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr IP Wing-yuk
Prof. LEUNG Kai-shun, Christopher
Mr CHAN Wing-kai
Mr WOO King-hang

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Ms Juliana CHOW instructed by
Messrs. CHEUNG, CHAN & CHUNG
Solicitors & Notaries

Government Counsel representing the Secretary: Miss Cherie FONG

1. The charge against the Defendant, Dr WONG Chit Sun, is:

“That in or about 2016, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of his name, title, interview records/statements on the Article “全醫生主理！DONNABEL 水光嫩膚療程” on the webpage of <https://www.style-tips.com/blog/post/3769> which promoted or endorsed the treatment(s) provided by “Donnabel”.

In relation to the facts alleged, 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 1 March 1989 to the present. His name has never been included in the Specialist Register.
3. Briefly stated, the Medical Council received an email on 27 April 2018 from one Ms FUNG complaining the Defendant of practice promotion. Attached to the email were relevant extracts downloaded from the webpages of <http://www.style-tips.com/blog/post/3769> (“the Webpages”), which discussed about the treatments provided by an organization of the name “Donnabel”.
4. The Secretariat to the Council had on 19 November 2019 downloaded from the Webpages an article entitled “全醫生主理！DONNABEL 水光嫩膚療程” (“the Article”).

Burden and Standard of Proof

5. 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.
6. 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 disciplinary charge against him carefully.

Findings of the Inquiry Panel

7. At the beginning of the inquiry, the Defendant admitted that he failed to take adequate steps to prevent the publication of his name, title, interview records/statements on the Article “全醫生主理！DONNABEL 水光嫩膚療程” on the webpage of <https://www.style-tips.com/blog/post/3769> (“the Blog”) which promoted or endorsed the treatment(s) provided by “Donnabel”.
8. The Secretary’s case is also that the Defendant sanctioned and/or acquiesced in the publication of the offending promotional materials. There is however nothing in the evidence adduced by the Secretary to show that the Defendant had actually sanctioned the publication of the offending promotional materials. We also do not agree that it was open for us to infer from the fact that the offending promotional materials were published so that the Defendant must have acquiesced in the publication.
9. It remains for us to consider and determine on the evidence whether the Defendant’s conduct had fallen below the standards expected of registered medical practitioners in Hong Kong.
10. It is clearly stated in section 18.2 of the Code of Professional Conduct (2016 edition) (“the Code”) that:

“A doctor who has any kind of financial or professional relationship with, uses the facilities of, or accepts patients referred by, such an organization, must exercise due diligence (but not merely nominal efforts) to ensure that the organization does not advertise in contravention of the principles and rules applicable to individual doctors. Due diligence shall include acquainting himself with the nature and content of the organization’s advertising ...”

11. In this connection, it is stipulated in 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.

...

5.2.1 *A doctor providing information to the public or his patients must comply with the principles set out below.*

5.2.1.1 *Any information provided by a doctor to the public or his patients must be:-*

- (a) *accurate;*
- (b) *factual;*
- (c) *objectively verifiable;*
- (d) *presented in a balanced manner (when referring to the efficacy of particular treatment, both the advantages and disadvantages should be set out).*

5.2.1.2 *Such information must not:-*

- (a) *be exaggerated or misleading;*
- (b) *be comparative with or claim superiority over other doctors;*
- ...
- (d) *aim to solicit or canvass for patients;*
- (e) *be used for commercial promotion of medical and health related products and services ...*
- (f) *be sensational or unduly persuasive;*

...

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.”*

12. There is no dispute that at all material times, the Defendant worked part time at Donnabel and received a monthly salary.
13. The Article was written by a blogger of name “Popcorn 55”. There was a time stamp on the Article, which read “3 years ago”. There is no dispute that the Article was first posted in or about 2016.
14. The Article contained the following contents:-

“... 我本人不抗拒入侵性療程的（笑），但 DONNABEL 的醫生是不容許客人過分要求而變成蛇精男或是怪魚女的。經過諮詢後，黃哲旻醫生建議先已水光槍改善底層太乾缺水而導致的乾紋。非常感恩得到醫生的專業意見，因為自己看自己可能將問題放到很大，很容易墮進一個好像不整容就沒救的心態（苦笑）。諮詢過程十分仔細，而完成後可選擇回家沈甸一下才答覆療程，沒硬銷的手法讓人感到舒服沒壓力，是我選擇美容院的重要因素！

...

所以普及是一件事，安全亦不可以忽視！DONNABEL 擁有專業醫療團隊，包括駐中心香港註冊醫生、經驗護士，今次主理水光嫩膚之黃哲旻醫生微整經驗豐富，並已獲得多項專業資格。由麻藥開始到注射，醫生都有講解，亦清楚成份，和有問及客人一些基本資料，以策萬全。作為愛美一族，親身體驗過不少療程，有多少地方過程全醫生主理？心裏有數！（笑）

醫學美容發展得快，同時亦多了不少美容意外，我希望各位絲打愛靚亦要愛命，貪平倒不如買護膚品吧，對不對？

麻藥只敷了五分鐘(可能沒有五分鐘)就搞定,其實不是覺得太麻。醫生說敷得太久只會引發敏感,而且水光槍不會太痛,打得太深入其實沒有必要,主要讓透明質酸進入真皮層就夠了。坊間有些強調打得很深很深的,除了帶來痛楚和明顯針孔外,功效沒多大分別...DONNABEL 水光槍採用來自韓國 Vital Injector ,5 針機械設計可於於 2mm 內微調,將養分精準地注入皮層。水光槍內成分會因應各位客人需要去調整,包括針對暗黃、鬆弛、色斑、毛孔粗大配方,務求達至最佳的美肌方案。重點應落在養分中,我知有些美容院用得可能是 99:1 的生理鹽水:透明質酸,給客人一個亮澤的假像,並不持久,但價錢很平就是了。識揀一定知點揀啦,不用我多說(笑)

...

醫生處理覺得份外安心,貼近眼周的乾紋一樣有照顧到,同樣一點都不痛。大概三十分鐘(可能更短)就完成,整個過程快靚正,好感恩!可見除了特別乾的面頰位外,其實沒明顯紅印!水光槍恢復期短,療程後可配合其他醫美療程。

...

即時效果,比較乾的面頰有少許紅,似輕微起痧。我覺得可以接受,素顏上街都不會太明顯。這段時間不要常用手觸摸面部,避免細菌感染到傷口。

三天後效果開始明顯,首先是眼紋消失,其次是鼻翼兩邊毛孔細緻了,痧退了,可以化妝和做平常的保養程序。

五天後的效果最美,皮膚滑溜溜,漲卜卜,飲飽水,自然膚色好!做一次,效果我覺得可以 keep 到一個月(按:寫文章期間大概是一個月後了~)當然效果也因人而異,生活習慣亦有影響大家都明白的,不用我多解釋。心動不如行動,做個精明消費者,新客戶可獲免費醫生諮詢啊!(笑)

DONNABEL 醫學美容中心

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分店電話:3976 9600

Whatsapp: 9845 9732

Facebook: <http://www.facebook.com/hkdonnabel/> ”

15. From the above, it is clear that the Article gave a detailed account from the first-person perspective of Vital Injector treatment (“Treatment”) which the blogger received at Donnabel 醫學美容中心. It made reference to the name and title of the Defendant, who is the only doctor referred to throughout, and certain interview records/statements made by him. The Article mentioned the following: (i) that the Defendant attended to details when explaining about the Treatment during enquiry stage; (ii) how the blogger was at ease as the Defendant did not exert any pressure on her; (iii) that Donnabel had a professional medical team of which the Defendant was very experienced such that safety was implied not to be a problem; and (iv) that there was little pain from the Treatment and the effect of the Treatment was implied to be better than those offered at other places. The Article also contained a number of photographs which appeared to be showing the interior of the clinic of Donnabel, consultation done with the blogger by the Defendant, some machines, and the faces of a female patient undergoing treatment. The Article ended with contact details of Donnabel provided. The Article when viewed as a whole was laudatory, unduly persuasive and promotional. There is no doubt in our minds that the publication of the Article aimed at soliciting and/or canvassing for patients for Donnabel with which the Defendant had a professional relationship.
16. In the Defendant’s first submission to the Preliminary Investigation Committee (“PIC”), the Defendant admitted that Donnabel had posted in its website a link to the Blog. The Defendant also admitted at today’s inquiry that he should have done better to not allow the interview by the blogger to continue. In any event, as said above, the Defendant admitted that he had failed to take adequate steps to prevent the publication of the Article.
17. For these reasons, by failing to take adequate steps to prevent the publication of his name, title and interview records/statements on the Article which promoted or endorsed the Treatment, the Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong.
18. Accordingly, we find the Defendant guilty of misconduct in a professional respect as per the charge.

Sentencing

19. The Defendant has a previous disciplinary record relating to inappropriately signing a medical certificate and making an inappropriate referral of a patient's case without proper examination. The subject matter of the present disciplinary charge is of different nature.
20. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and not contesting in the disciplinary proceedings before us today.
21. 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.
22. In 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.
23. We have taken into consideration the Defendant's contribution in social services and the character reference letter as submitted.
24. In mitigation, the Defendant told us that he had tendered his resignation and left Donnabel in December 2018. Further, Donnabel had closed its business in August 2019. Since leaving Donnabel, the Defendant said in his second PIC submission that he had set up his own clinic under the name of "JoyMed" and had kept advertisement to the straight and narrow within the Code. We accept that the chance of re-offending is low.

25. Taking into consideration the nature and gravity of the disciplinary charge for which we find the Defendant guilty 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 1 month. We further order that the operation of the removal order be suspended for a period of 6 months.

Dr CHOI Kin, Gabriel
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong