

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Tak Yeung Alec (王德揚醫生) (Reg. No.: M12813)

Date of hearing: 6 November 2020 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr LAU Chor-chiu, GMSM, MH, JP
Dr CHIU Chi-fai
Mr MUI Cheuk-nang, Kenny
Mr LUI Wing-cheung, Kenneth

Legal Adviser: Mr Edward SHUM

The Defendant is present and he is not legally represented.

Government Counsel representing the Secretary: Miss Liesl LAI

1. The charges against the Defendant, Dr WONG Tak Yeung Alec, are:

First Case (MC 15/434)

“That in or about October 2015, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:

(a) the use of the title “植髮醫生” in a notice published on 15 October 2015 in the Headline Daily / Headline News / 頭條日報, which was not a quotable qualification approved by the Medical Council of Hong Kong and/or was misleading to the public that he was a specialist in hair transplant, when in fact there had been no such specialty included in the Specialist Register;

(b) *the publication of the following promotional statements or information in an article published on 10 October 2015 in the Headline Daily / Headline News / 頭條日報 relating to his experience, skills and/or practice:*

- (i) “擁有十一年經驗的植髮外科醫生王德揚”;
- (ii) “首個智能無痕植髮 (FUE) 系統”;
- (iii) “智能機械植髮無疤效率增”;
- (iv) *statements concerning the nature and/or effects of “智能機械植髮” / “智能無痕植髮 (FUE) 系統” / “無痕植髮系統”;* and/or
- (v) *photographs showing the demonstration of “智能機械植髮” / “智能無痕植髮 (FUE) 系統” / “無痕植髮系統”.*

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

Second Case (MC 16/181)

“That on 13 May 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] [REDACTED] (“the Patient”), in that he dispensed to the Patient the medication “Itraconazole Capsules 100 mg” which had expired in March 2016.

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

2. The Defendant’s name has been included in the General Register from 8 July 2000 to the present. His name had never been included in the Specialist Register.
3. Upon the direction of the Chairperson of the Inquiry Panel, inquiry into the above-mentioned disciplinary charges against the Defendant was consolidated into one pursuant to section 16 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation, Cap. 161E.

Facts of the case

First Case (MC 15/434)

4. The Defendant admits the factual particulars of the disciplinary charges against him.

5. Briefly stated, the Secretary of the Medical Council (“the Secretary”) received on 17 November 2015 a letter from someone who called themselves “A *group of caring doctor*” (“the Complainant”) complaining the Defendant of possible violation of the Code of Professional Conduct (“the Code”).
6. The Complainant also attached to this complaint letter copy extract from the Headline News depicting an article (“the Article”) published on 10 October 2015 in which promotional statements and/or information, which now form the subject of disciplinary charge (b), were found.
7. Copy of the Article was placed by the Legal Officer before us today for our consideration.
8. But actually, prior to the receipt of this complaint letter, the Secretary had already received on 10 October 2015 an e-mail from one Mr CHU, who claimed to be “*writing on behalf of Dr Wong Tak Yeung Alec (M12813)*”, informing the Medical Council that:

“Dr Wong was recently interviewed on hair transplant matters and he specifically stated that he should only be mentioned as “醫生”, however it is noted that when the interview content is released in the 10/10/15 of Headline News (attached), Dr Wong is mentioned as “外科醫生”. Since this is inappropriate and is not Dr Wong’s intention to be described in this way, Dr Wong would like to report this case to you at earliest possible time.”
9. Later on 15 October 2015, another e-mail was sent by Mr CHU to the Secretary, with copy to the Defendant, informing the Medical Council that:

“Please be advised that Nu/Hart Hair Solutions Limited has published a clarification notice in the 15/10/15 of Headline News regarding the mis-quote of Dr Wong’s title on 10/10/15 (attached). Trust it will clear all potential concerns and bring in this matter to the end.”
10. Attached to the second e-mail from Mr CHU was copy of a clarification notice (in Chinese) published in the Headline News on 15 October 2015 in which it was said that the correct title of the Defendant should be “植髮醫生” instead of “植髮外科醫生”.

Burden and Standard of Proof

11. 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.
12. There is no doubt that each of the allegations 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 each of the disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

13. It is clearly stipulated in section 5.2.1 of the Code (2009 edition):
 - “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,*
 - (c) *claim uniqueness without proper justifications for such claim,*
 - (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,*
- ...
- (h) *generate unrealistic expectations...*”

14. Whilst it is appropriate for a doctor to take part in *bona fide* health education, it is clearly stated in section 6.2 of the Code (2009 edition) that:

“A doctor should take reasonable steps to ensure that the published... 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...”

15. There is no dispute that the title of “植髮醫生” was not a quotable qualification approved by the Medical Council. Moreover, the use of the title of “植髮醫生” in the Headline News was likely in our view to mislead the public into thinking that the Defendant was a specialist in hair transplant.

16. We agree with the Legal Officer that professional titles of doctors are important and members of the public are likely to rely on the expertise implied by those titles in choosing doctors and submitting themselves to treatment by those doctors.

17. Having learnt that his title had been wrongly quoted in the Article published in the 10 October 2015 issue of the Headline News to be a “植髮外科醫生”, the Defendant should in our view be on the alert and avoid leaving readers of the clarification notice with the impression that he was a specialist in hair transplant.

18. And yet, the Defendant still failed to take any or any reasonable steps to ensure that the description of his title in the clarification notice published in the 15 October 2015 issue of Headline News would be correctly stated.

19. By sanctioning, acquiescing in and/or failing to take adequate steps to prevent the use of the title “植髮醫生” in the clarification notice, the Defendant has in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of disciplinary charge (a) in respect of the First Case.

20. In our view, the promotional statements and information contained in the Article were not only misleading but would also leave the readers with the impression that “智能機械植髮” / “智能無痕植髮 (FUE) 系統” / “無痕植髮系統” was unique and highly effective in making hair transplant. This might even generate unrealistic expectations amongst the readers that the Defendant had special skill and expertise for treating their hair problems.
21. For these reasons, the Defendant has in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charge (b) in respect of the First Case.

Second Case (MC 16/181)

22. The Defendant also admits the factual particulars of the disciplinary charge against him in respect of the Second Case.
23. Briefly stated, the Secretary received a complaint from one [REDACTED] on 25 May 2016 alleging that one of the medicines dispensed to her by the Defendant, namely, Itraconazole capsules 100 mg, had already expired when they were given to her on 13 May 2016.
24. There is no dispute that the expiry date marked on the packaging of the Itraconazole capsules was “MAR 2016”.
25. The significance of the expiry date on any medicine lies in that its efficacy and safety cannot be guaranteed beyond that date. It may well be that the efficacy and safety of the medicine do not fall off rapidly after its expiry date but the real point is that the efficacy and safety of the medicine are no longer guaranteed. Also, the anxiety or distress that patients may develop after realizing that they have taken expired medicines must not be overlooked.
26. For these reasons, we are of the view that the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of misconduct in a professional respect as charged in the Second Case.

Sentencing

27. The Defendant has a clear disciplinary record.

28. In line with our published policy, we shall give him credit in sentencing for his frank admission and full cooperation throughout the disciplinary proceedings.
29. 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.
30. In July 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 of time 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.
31. We accept that the Defendant has learnt his lesson. We also accept that the gravamen of his wrongdoings lay in his lack of due diligence in ensuring that his professional title and credentials would not be misquoted.
32. Having considered the nature of gravity of these two cases and what we have heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) in the First Case that:
 - (1) the Defendant's name be removed from the General Register for a period of 1 month; and
 - (2) the operation of the removal order be suspended for a period of 12 months.
33. We further order in respect of the Second Case that a warning letter be issued to the Defendant.

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