香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LO King Yan Cathy (盧敬欣醫生) (Reg. No.: M18811)

Date of hearing: 23 January 2024 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr CHEUNG Chin-pang
Dr CHAN Nim-tak, Douglas
Ms LIU Lai-yun, Amanda
Mr HUI Cheuk-lun, Lawrence

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Dr David KAN of
Messrs. Howse Williams

Senior Government Counsel (Acting) representing the Secretary: Miss Cherie FONG

1.   The charge against the Defendant, Dr LO King Yan Cathy, is:

> *"That in or about 2022, she, being a registered medical practitioner, disregarded her professional responsibility to her patient(s), in that she published snapshot(s) containing patient(s)' names and/or personal particulars and/or medical information extracted from the Hospital Authority's computerised system(s) onto Instagram without the prior consent from the patient(s) and/or the Hospital Authority.*
>
> *In relation to the facts alleged, whether individually or cumulatively, she 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 July 2018 to the present. Her name has never been included in the Specialist Register.

3. Briefly stated, on 23 March 2022, the Medical Council received an anonymous complaint letter, in which the complainant alleged that the Defendant, whilst working at Tin Shui Wai (Tin Yip Road) Community Health Centre and subsequently at Madam Yung Fung Shee Health Centre, published snapshots containing patients' names and/or personal particulars and/or medical information together with remarks made by the Defendant onto her electronic social platform. Attached to the complaint letter were 13 photographs of these snapshots ("13 snapshots").

4. There is no dispute that the two aforementioned health centres were at all material times, and in fact still are, operated under the Hospital Authority ("HA"). The Defendant admits that the 13 snapshots, which contained patients' names and/or personal particulars and/or medical information, were extracted from HA's computerized system(s) and published onto Instagram by her without prior consent from the patients and/or HA.

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 her 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 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 her carefully.

Findings of the Inquiry Panel

7.   The Defendant admits the factual particulars of the disciplinary charge against her and does not contest that the facts alleged amount to misconduct in a professional respect. It however remains for us to consider and determine on the evidence whether she has been guilty of misconduct in a professional respect.

8.   All 13 snapshots show the Instagram name and photograph of the Defendant on the top left.

9.   All 13 shapshots show different patients' names and/or personal particulars and/or medical information as background, with the Defendant's different remarks superimposed thereon. The Defendant's remarks are as follows:

"66 歲揸貨櫃車　本來係住大陸但冇得返去　係香港無地方住就買左個貨櫃住係入面　真係不得不佩服佢哋嘅創意"

"中醫連眼科都撈埋 [emoji]　個病人話個中醫專睇眼有部機睇眼底 [emoji]"

"我只想身體健康～～ 佢爸爸媽媽一定好想佢健健康康 [emoji]"

"個日係　今日到 [emoji]"

"大家估下呢個□仔幾多歲"

"好叻呀你哋！！… 一個肥仔嘅背後仲有一個肥哥哥　肥妹妹同埋肥家長 [emoji] 真心　生仔要考牌　集思廣益：創意激勵細路減肥方法"

"佢英文名真係叫 prince [emoji]　好彩佢係講中文　如果唔係我就要講 Good morning Prince, how may I help u today?"

"Triple Cancer [emoji] Feel sorry for him > <"

"Any thoughts about this name lol?!!!"

"我想講大家呢排盡量都唔好去 staycation　今日睇咗兩三個病人，都係屋企人快速測試中咗　去咗住酒店　所以啲酒店可以好多中左招又未確診嘅人士"

"元朗人的健康令我大開眼界 LDL 11.8 真心未見過 [emoji]"

"同場加映 43 既 TG lol 正常係 1 到 LDL 理想水平係 2.6 到"

"我真心問左佢點解無啦啦做前列腺按摩 佢笑而不語 [emoji] PS PROSTATE MASSAGE 係會令前列腺指數唔準"

10.   It is stated in the Code of Professional Conduct ("the Code") (2016 edition) that:

> *"1.1   Medical records*
>
> *...*
>
>> *1.1.2   A medical record documents the basis for the clinical management of a patient.   It reflects on the quality of care and is necessary for continuity of care.   It protects the legal interest of the patient and the healthcare provider.*
>>
>> *...*
>>
>> *1.1.4   All medical records should be kept secure. This includes ensuring that unauthorized persons do not have access to the information contained in the records and that there are adequate procedures to prevent improper disclosure ...*
>
> *...*
>
> *1.4   Disclosure of medical information to third parties*
>
>> *1.4.1   A doctor should obtain consent from a patient before disclosure of medical information to a third party not involved in the medical referral. "*

11.   In this case, the publishing of the 13 snapshots, which disclosed the different patients' names and/or personal particulars and/or medical information were without prior consent of the patients.   The Defendant was clearly in breach of the Code for improper disclosure.   Further, it was very improper for the Defendant to publish the patients' names and/or personal particulars and/or medical information onto electronic social platform, to be shared among her friends and/or the public, and to make inappropriate remarks, commenting, criticizing and/or making fun of the patients.   The remarks on lipid levels were

not factual. In our view, the Defendant had by her conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct as charged.

Sentencing

12.   The Defendant has a clear disciplinary record.

13.   In line with published policy, we shall give credit to the Defendant for her frank admission and full cooperation throughout these disciplinary proceedings.

14.   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.

15.   We give credit to the character reference letters as submitted, the Defendant's contribution to voluntary work and public health education, and to the CME courses undertaken.

16.   The Defendant told us that she had insight into her wrongdoing and she had already removed the offending materials prior to knowing about the complaint. The Defendant also told us that she has taken steps to ensure that she will not make the same mistake again, including making careful consideration before posting or sharing content on social media, even when the content is intended only for private circles, regularly reviewing and updating her privacy settings on social media, undertaking self-learning on medical ethics, and engaging in self-reflection and seeking guidance from senior colleagues and mentors. We believe that the Defendant should have learnt a hard lesson. We believe that the risk of re-offending is low.

17.   Taking into consideration the nature and gravity of the case against the Defendant and what we have read and heard in mitigation, we order that the Defendant be reprimanded.

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

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