

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Tin Hau (黃天厚醫生) (Reg. No.: M15327)

Date of hearing: 6 January 2023 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr Pierre CHAN
Dr CHAN Hung-chiu, Peter
Mrs BIRCH LEE Suk-ye, Sandra, GBS, JP
Mr LAI Hing-kwan

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Alison SCOTT of
Messrs. Howse Williams

Government Counsel representing the Secretary: Miss Cherie FONG

The Defendant is not present.

1. The amended charges against the Defendant, Dr WONG Tin Hau, are:

“That he being a registered medical practitioner,

(a) in or about 2020, engaged himself in improper professional practice in his association with ‘Lutronic_APAC’ by sanctioning, acquiescing in, or failing to take reasonable steps to prevent the following:

- (i) *the use of ‘Master of Science in Aesthetic Plastic Surgery [(MScAPS)] in University of London’ in the Facebook post of ‘Lutronic_APAC’ (‘Facebook Post’), which was not a quotable qualification approved by the Medical Council of Hong Kong; and/or*
 - (ii) *the publication in the Facebook Post of the promotion statement(s) of ‘world-famous skin expert’, ‘aesthetic physician’ and/or ‘cosmetic surgeon’ in relation to his experience, skill and/or practice.*
- (b) *from about October 2020 to January 2021, sanctioned, acquiesced in or failed to take adequate steps to prevent:*
- (i) *the use of the title of “Aesthetic & Plastic Surgeon” in the website of <http://www.multispecialtysociety.com>, which was misleading to the public that he was a specialist in Plastic Surgery when his name was not included in the Specialist Register under the specialty of “Plastic Surgery”; and/or*
 - (ii) *the use of the title of “Aesthetic & Plastic Surgeon” in the website of <http://www.multispecialtysociety.com>, which was not a quotable qualification approved by the Medical Council of Hong Kong; and/or*
 - (iii) *the use of the title of “Cosmetic Surgeon” in an online webinar event, which was not a quotable qualification approved by the Medical Council of Hong Kong; and/or*
 - (iv) *the publication of the promotional statement of “an absolute expert with lasers, particular picosecond lasers” in relation to his experience, skills and/or practice in the website of <https://www.facebook.com/watch/?v=3234384823339447>.*

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 1 July 2007 to the present. His name has never been included in the Specialist Register.
3. Briefly stated, the Secretary of the Medical Council (the “Council”) received several emails in 2020 from one Cici Leung complaining of the Defendant’s use of “*illegal title for advertisement*”. Attached to the complaint emails were extracts from the Facebook post of ‘*Lutronic_APAC*’, which now form the subjects of the disciplinary charges (a)(i) and (ii) against the Defendant.
4. By a letter dated 19 January 2021, the Council of the Hong Kong Association of Cosmetic Surgery lodged a complaint to the Secretary of the Council against the Defendant for the use of the title of “*Aesthetic & Plastic Surgeon*” in a webinar event held on 22 October 2020 and 14 January 2021 respectively. Attached to the complaint letter were extracts from the website of <http://www.multispecialtysociety.com>, which now form the subjects of the disciplinary charges (b)(i) and (ii) against the Defendant.
5. And by a letter dated 19 February 2021, the President of the Hong Kong Society of Plastic, Reconstructive & Aesthetics Surgeons lodged a complaint to the Secretary of the Council against the Defendant for misquoting himself as an “*Aesthetic & Plastic Surgeon*” and “*Cosmetic Surgeon*”. Attached to the complaint letter were extracts from the website of <http://www.multispecialtysociety.com> and YouTube, which now form the subjects of the disciplinary charges (b)(iii) and (iv) against the Defendant.

Burden and Standard of Proof

6. 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.

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

Findings of the Inquiry Panel

8. The Defendant admits the factual particulars of the disciplinary charges against him. However, it remains for us to consider and determine on the evidence whether he has been guilty of misconduct in a professional respect.
9. Persons seeking medical services often relied upon professional qualifications to make an informed choice of doctors. Therefore, information provided by doctors about their professional qualifications should always be accurate and not misleading.
10. The scheme of quotable qualifications was set up by the Council to regulate the quoting of qualifications by doctors in their communication of practice information to the public. The regulation was considered necessary to maintain public confidence in the medical profession and to protect the public from misleading information. A List of Quotable Qualifications was established to include those qualifications which the Council was satisfied to be directly related to medical practice and of an acceptable standard and reflected significant improvement to a doctor's medical competence over and above his basic training.
11. Whilst academic biography of a doctor may be published in medical literature and the like, it does not necessarily follow that the same information, albeit factually accurate and objectively verifiable, can be provided to the public without limitation. In our view, persons seeking medical service for themselves or their families can be particularly vulnerable to persuasive influence from practice promotion.
12. In this connection, it was specifically stated in the Code of Professional Conduct (the "Code") (2016 edition) that:-

"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...*

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...*

6.1 *It is appropriate for a doctor to take part in bona fide health education activities... 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..."*

13. It is evident to us that the use of ‘*Master of Science in Aesthetic Plastic Surgery [(MScAPS)] in University of London*’ in the present case was impermissible. We also agree with the Legal Officer that the publication in the present case of the promotional statement(s) of ‘*world-famous skin expert*’, ‘*aesthetic physician*’ and ‘*cosmetic surgeon*’ in relation to the Defendant’s experience, skill and/or practice was a form of unauthorized practice promotion.

14. By sanctioning, acquiescing in, or failing to take reasonable steps to prevent the use of the said non-quotable qualification and publication of the said promotional statements, the Defendant has by his conduct in the present case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charges (a)(i) and (ii).

15. We agree with the Legal Officer that the use of the title of “*Aesthetic & Plastic Surgeon*” in the present case would mislead the readers from the public into thinking the Defendant was a specialist in Plastic Surgery when in fact he was not. It is also evident to us that the use of the titles of “*Aesthetic & Plastic Surgeon*” and “*Cosmetic Surgeon*” in the present case was impermissible. Furthermore, we agree with the Legal Officer that the publication in the present case of the promotional statement of “*an absolute expert with lasers, particular picosecond lasers*” in relation to the Defendant’s experience, skills and/or practice was a form of unauthorized practice promotion.
16. By sanctioning, acquiescing in, or failing to adequate steps to prevent the use of the said offending titles and publication of the said promotional statement, the Defendant has in our view by his conduct in the present case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charges (b)(i), (ii), (iii) and (iv) as amended.

Sentencing

17. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and not contesting the amended disciplinary charges.
18. In June 2006, the Council issued a clear warning that all future cases of unauthorized practice promotion will 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 will take immediate effect. The same warning was repeated in subsequent disciplinary decisions of the Council.
19. The Defendant has a previous disciplinary conviction relating to wrongful use of professional title(s) and quotation of non-quotable qualification(s) and appointment(s); and commercial promotion of products. The name of the Defendant was ordered to be removed from the General Register for 1 month with suspension for 12 months after due inquiry on 6 April 2020.

20. Defence solicitor submitted in mitigation that the Defendant did not commit the misconduct giving rise to disciplinary charges in the present case deliberately. We also noted from reading the Defendant's submissions to the Preliminary Investigation Committee that he did not prepare or approve the use of offending titles and non-quotable qualification and promotional statements in the present case.
21. We are however particularly concerned that the misconduct giving rise to the disciplinary charges in the present case happened during the 12 months suspension period. We need to consider whether the suspended removal order of 1 month should be activated.
22. The misconduct giving rise to the disciplinary charges in the present case was not isolated incidents. Bearing in mind what had happened in the previous disciplinary case, the Defendant ought to have in our view a higher index of suspicion when dealing with organizers of lecture and webinar in the present case. We have grave doubt whether the Defendant had sufficient insight into his repeated misconduct of the same nature. Indeed, defence solicitor also told us that she had no instruction from the Defendant on why the suspended removal order should not be activated.
23. We consider this is an appropriate case to activate the suspended removal order.
24. Taking into consideration the nature and gravity of the disciplinary charges in the present case and what we have heard and read in mitigation, we shall make a global order that the name of the Defendant be removed from the General Register for a period of 2 months. We further order that the removal order to run concurrently with the activated suspended removal order of 1 month, giving a total of 2 months.

Prof. LAU Wan-yee, Joseph, SBS
Chairperson of the Inquiry Panel
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