

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEUNG Kwok Ling Ares (梁國齡醫生) (Reg. No.: M05819)

Date of hearing: 26 April 2024 (Friday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr YEUNG Hip-wo, Victor
Dr LI Wilson
Ms LIU Lai-yun, Amanda
Ms LAU Sze-wan, Serena, MH, JP

Legal Adviser: Mr Edward SHUM

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

Senior Government Counsel representing the Secretary: Ms Rachel LI

1. The charge against the Defendant, Dr LEUNG Kwok Ling Ares, is:

“That in or about July 2021, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the publication of the business cards of Dr CHAN Pak Hong, Dr LAU Shing Chi, Dr LAW Yuen Ki and/or Dr WONG To in relation to their practice at “Prestige Medical Centre” or “Platform Medical Centre” on the Facebook page of “良醫生 Dr Ares” which is owned and/or operated and/or controlled by him.

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 August 1985 to the present. His name has been included in the Specialist Register under the Specialty of Obstetrics & Gynaecology since 4 March 1998.
3. Briefly stated, the Secretary of the Medical Council (the “Council”) received an email from one LO Kelly (the “Complainant”) on 24 July 2021 complaining of “*canvassing*” (the “Complaint”). The Complainant also provided the Secretary with a hyperlink to a Facebook page (the “Facebook Page”) at https://m.facebook.com/story.php?story_fbid=355147852851138&id=100050677770470.
4. In support of her case, the Secretary had downloaded on 26 July 2021 and tabled before us today a Facebook post extracted from the Facebook Page (the “Facebook Post”), which now form the subject of the disciplinary charge against the Defendant.
5. In response to the Complaint, the Defendant admitted in his submission to the Preliminary Investigation Committee (“PIC”) dated 27 June 2022 that:-

“1. [He] owned and operated the Facebook Page personally for around 5 years...

2. In late July 2021, [he] accompanied [his] wife to the clinic shown in the Facebook post as she took part in the establishment and design of the clinic. [He] took pictures of the shopfront and the interiors of the clinic [him]self. In order to express [his] admiration for the work [his] wife has done and celebrate her effort, [he] published a post on the Facebook Page about the clinic.

3. [He] would like to confirm that:

*(a) All the photographs in the post, including the photograph containing the business cards of the Doctors, were taken by [him]. [He] obtained the business cards from the clinic. The Doctors did **not** pass their business cards to [him].*

(b) [He] put those information on the Facebook Page out of [his] own volition...

4. *Upon receipt of the PIC Notice, the Doctors immediately brought this matter to [his] attention. [He] then promptly took remedial actions by removing the post in question on 13 June 2022 and closing down the Facebook Page permanently on 18 June 2022, so that the information in the post will no longer be accessible to the public...*

6. In response to the Defendant's PIC submission, the Secretary had downloaded on 14 January 2023 and tabled before us today extracts from the webpage of Prestige Medical Centre at <https://www.prestige-pmc.com/about-us/?lang=en>, which showed at the time that:-

- (a) Prestige Medical Centre was founded by the Defendant in 1993;
- (b) Prestige Medical Centre operated as medical practice group with over a dozen specialists and 7 different medical centres in Hong Kong including the Platform Medical Centre; and
- (c) The name and photograph of the Defendant appeared prominently at the top of a list of gynaecologists of Prestige Medical Centre.

7. In his second submission to the PIC by a letter from his solicitors dated 30 June 2023, the Defendant further explained that:-

"4. [He] was the chief operating officer of Townhealth International Medical Group Limited from June 2020 to July 2022... This was a full time non-clinical position...

...

9. It is evident from the company search attached to the PIC Notice that [he] had no involvement with Prestige Medical Centre Limited in July 2021, nor any other organisation (other than Townhealth). He is neither a shareholder nor director... Prestige Medical Clinic has no connection with the Townhealth Group...

...

11. In July 2021, he accompanied his wife to Prestige Medical Centre following a recent refurbishment and took the opportunity to post photographs and information on his Facebook page to describe to his followers the steps taken to protect the health of patients, including air treatment and antimicrobial coatings. His motive was to highlight this to the public during the pandemic..."

Burden and Standard of Proof

8. 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.
9. 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

10. The Defendant admitted the factual particulars of the disciplinary charge against him. However, it remains for us to consider and determine on the evidence whether the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong.
11. It is clearly stated in section 5.2.2.1 of the Code of Professional Conduct (the “Code”) (2016 edition) that:-

“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... irrespective of whether he actually benefits from such publicity.”
12. When being notified of the Complaint, the Defendant merely explained to the PIC that photographs of the business cards of the 4 doctors mentioned in the disciplinary charge were posted by him without their knowledge and consent. We have grave doubt about the Defendant’s subsequent claim that he “*had no involvement with Prestige Medical Centre Limited in July 2021*”; and he “*conduct[ed] only a few consultations at Prestige Medical Centre each week*” only after 2021.

13. Even if the Defendant’s claim is true, as the Court of Appeal aptly pointed out in *Chan Hei Ling Helen v Medical Council of Hong Kong* [2009] 4 HKLRD 174 at paragraph 46:-

“But when a person who belongs to the medical profession is permitted to engage in other activities, it does not follow that he would be free to carry on that other activity free from all ethical or professional constraints. Rather, it is to be expected that if the doctor’s status, qua doctor, is engaged or involved when carrying out that other activity, ethical or professional constraints could arise...”

14. In our view, the Facebook Post must be read as a whole. It is evident to us that the Facebook Page was posted by the Defendant in his capacity as a doctor. Indeed, the Defendant admitted in his first PIC submission that *“the Facebook Page served predominantly as a portal to promote COVID-19 awareness and care”*. Since his status *qua doctor* was engaged when he posted the Facebook Page, the Defendant was subject to *“all ethical or professional constraints”* which ensued.

15. The Defendant emphasized that his intention was to promote COVID-19 vaccinations at a time when *“lay public did not accept scientific or medical explanations and refused vaccinations”*. There was however no mention of COVID-19 vaccinations in the Facebook Post. It is also evident to us that reference in the Facebook Post about the steps taken to protect the health of patients including *“air treatment and antimicrobial coatings”* during the COVID-19 pandemic would serve to promote the professional services of the 4 doctors mentioned in the disciplinary charge. In any event, there is no reason and let alone justification in our view for the Defendant to post the business cards of the 4 doctors mentioned in the disciplinary charge.

16. For these reasons, we are satisfied on the evidence before us that the Defendant had by his conduct in this case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

Sentencing

17. The Defendant has a clear disciplinary record.
18. In line with our published policy, we shall give the Defendant credit in sentencing

for his admission before us today.

19. 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.
20. In June 2006, the 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 Council.
21. We have taken into consideration the Defendant's contributions to the medical profession and to the society in the past and the character reference letters written on his behalf.
22. We agree that the Defendant has learned his lesson.
23. Taking into consideration the nature and gravity of the disciplinary charge for which we find the Defendant guilty and what we have read and heard 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 removal order be suspended for a period of 6 months.

Remark

24. The name of the Defendant is included in the Specialist Register under the Specialty of Obstetrics & Gynaecology. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

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