

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr YUEN Man Tung (源敏彤醫生) (Reg. No.: M19572)

Date of hearing: 20 December 2024 (Friday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr CHUNG Kin-lai
Dr WUN Yiu-chung
Ms FUNG Dun-mi, Amy, MH, JP
Mr YUEN Hon-lam, Joseph

Legal Adviser: Mr Stanley NG

Senior Government Counsel (Acting) representing the Secretary: Miss Phoebe YEUNG

The Defendant is present and she is not legally represented.

1. *The charge against the Defendant, Dr YUEN Man Tung, is:*

“That in or about January 2022, she, being a registered medical practitioner, disregarded her professional responsibility to her patient Madam X, in that she published a snapshot containing her full name and medical information (in particular, the words “moderate depressive”) onto Instagram without her prior consent.

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

Facts of the case

2. At the beginning of the inquiry, on our own initiative, for the protection and in the interest of the patient in the present case, we made an anonymity order in respect of the name of the patient. As such, the patient will be referred to as Madam X hereinafter.
3. The name of the Defendant has been included in the General Register from 1 July 2019 to the present. Her name has never been included in the Specialist Register.
4. Briefly stated, on 24 May 2022, a complaint by way of a statutory declaration made by Ms WONG Ying Kei Vivian (“the Complainant”) was lodged to the Medical Council against the Defendant. According to the complaint, on 17 January 2022, the Defendant published a snapshot containing the name and medical information of Madam X on a Story post on her personal Instagram account. Attached to the statutory declaration were a screenshot of an Instagram account under the profile name “tarzanymt” with 546 followers (“the Instagram Account”) and a screenshot taken at 1:50 p.m. on 18 January 2022 of a Story post under the same profile name (“the Story Post”).

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. From the screenshot of the Story Post, there was a time stamp, which read “15h”. According to the Complainant, this indicated that the Story Post had been published for 15 hours by the time the screenshot was taken at 1:50 p.m. on 18 January 2022. This meant the Story Post should have been posted 15 hours earlier, at around 10:50 p.m. on 17 January 2022.
9. The Story Post showed a partial snapshot of the “Patient-specific Function(s)” platform of the Hospital Authority’s Clinical Management System (“CMS”), which contained both the Chinese and English names of Madam X together with information pertaining to her medical condition (i.e. “moderate depressive”). There was also a couple of Chinese words added by the Defendant and superimposed on this Story Post page (“the Chinese Words”). Since the Chinese Words will reveal the identity of Madam X, we will not mention the Chinese Words here.
10. According to the submission of the Defendant to the Preliminary Investigation Committee (“PIC”) of the Medical Council dated 11 August 2022, the Defendant worked at the Psychiatric Department of United Christian Hospital. Madam X was the Defendant’s patient who consulted the Defendant on 17 January 2022. The Defendant said that she found the name of Madam X “interesting”, and therefore she published the Story Post for the purpose of sharing with her friends on the Instagram as an anecdote. The Defendant said that she consciously redacted the major identification particulars of Madam X, such as her age, sex, date of birth, identity card number and all medical record numbers. She said her disclosure of part of the symptoms of Madam X was entirely unintentional, and the said symptoms were neither the exact diagnosis nor the entire diagnosis of Madam X. The Defendant also said that her Instagram Account was only a “private” account, and only her followers, as opposed to the general public, could view the contents posted by her.
11. What the Story Post revealed was the medical record of Madam X. It showed

the medical information of Madam X on a particular day on the “Patient-specific Function(s)” page of HA’s CMS. Both the Chinese and English names of Madam X together with information of her medical condition (i.e. “moderate depressive”) were revealed. We have particularly looked at the Chinese Words added and superimposed on the Story Post by the Defendant. We have no doubt that the connotation of the Chinese Words was to make fun of the name of Madam X. In our view, it does not matter whether the followers of the Defendant’s Instagram Account were private followers or not. They were still not supposed to be revealed the medical record or information of any patient. Further, it seems that the Defendant had not obtained any consent from HA for releasing any medical record of Madam X.

12. It is clearly 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.”

13. 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

14. The Defendant has a clear disciplinary record.
15. In line with our published policy, we shall give credit to the Defendant for her frank admission and full cooperation throughout these disciplinary proceedings.
16. 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.
17. We have considered the mitigation bundle provided by the Defendant.
18. In mitigation, the Defendant still told us that her Instagram Account was a private account and she was only sharing with her friends. The Defendant still defended that she was not making fun of Madam X's name. All the Defendant cared about seemed to be whether her disclosure was in compliance with personal data privacy legislation, rather than from looking from Madam X's perspective and paying regard to whether the disclosure would have caused any potential injury to Madam X. The Defendant also told us that it was because she was under stress of the COVID 19 pandemic that she committed the breach. In our view, stress of a doctor is never an excuse for breaching patient's privacy. It is particularly serious for this case because Madam X was the Defendant's psychiatric patient. The Defendant ought not make fun of Madam X's name. We take the view that the Defendant has no insight or remorse of her wrongdoing.
19. 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's name be removed from the General Register for the period of 1 month and the operation of the removal order be suspended for a period of 12 months, subject to the condition that the Defendant shall complete during the suspension period CME courses (or equivalent courses) to be pre-approved by the Chairman of the Council relating to professional ethics to the equivalent of 10 CME points.

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