

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr CHAN Chiu Chuen (陳照全醫生) (Reg. No.: M11626)

Date of hearing: 19 April 2024 (Friday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP  
(Chairperson of the Inquiry Panel)  
Dr LING Siu-chi, Tony  
Dr LEUNG Hon-fai, Henry  
Ms LIU Lai-yun, Amanda  
Mr LAW Yu-wing

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Miss Jennifer LEE  
of Messrs. Mayer Brown

Government Counsel representing the Secretary: Miss Cherie FONG

1. The charges against the Defendant, Dr CHAN Chiu Chuen, are:

*“That in or about 2020 to 2022, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:*

*(a) the publication of his photo(s) and promotional statement(s) of his experience and/or skills in relation to his practice on the Facebook page named “我的外科醫生老公之日常” and/or*

*(b) the publication of medical information (including but not limited to photo(s)) of his patient(s) on the Facebook page named “我的外科醫生老公之日常”.*

*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 26 August 1997 to the present. His name has been included in the Specialist Register under the specialty of General Surgery since 1 March 2017.
3. Briefly stated, the Medical Council received a letter dated 28 April 2022 complaining the Defendant of practice promotion. Attached to the complaint letter was a set of website printouts containing posts of various dates downloaded from the Facebook page named “我的外科醫生老公之日常” (“the Facebook Page”).
4. A similar set of website printouts of the Facebook Page as extracted by the Secretariat of the Medical Council on 11 May 2022 was produced at the inquiry.

### **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 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.
6. 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 the disciplinary charges against him separately and carefully.

## **Findings of the Inquiry Panel**

7. The Defendant admits the factual particulars of all the disciplinary charges against him, but only in relation to the element of “failed to take adequate steps to prevent”. It nevertheless remains for us to consider and determine on the evidence of each of the charges whether he is guilty of misconduct in a professional respect.

8. It is stipulated in the Code of Professional Conduct (2016 edition) (“Code”) that:

*“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.*

...

*5.2.1 A doctor providing information to the public or his patients must comply with the principles set out below.*

...

*5.2.1.2 Such information must not:-*

...

*(d) aim to solicit or canvass for patients;*

...

*5.2.2.1 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 or elsewhere, by himself or anybody acting on his behalf or with his forbearance (including the failure to take adequate steps to prevent such publicity in circumstances which would call for caution), which objectively speaking constitutes promotion of his professional services, irrespective of whether he actually benefits from such publicity.*

*5.2.2.2 Practice promotion by individual doctors, or by anybody acting on their behalf or with their forbearance, to people who are not their patients*

*is not permitted except to the extent allowed under section 5.2.3.*

...

5.2.3.3 ...

*Letters of gratitude or announcements of appreciation from grateful patients or related persons identifying the doctor concerned should not be published in the media or made available to members of the public. A doctor should take all practical steps to discourage any such publications.”*

9. The Facebook Page contains *inter alia* a number of posts (collectively “the Posts”), as follows:

A post dated 2 June 2020

“【甲狀腺癌全切除手術】最近老公替一位保險經紀朋友的媽媽完成了甲狀腺癌全切除手術，這位病人六十多歲，她發現自己頸內有個腫脹的東西已經一段時間，但不敢告訴家人，因為不想家人擔心，就這樣一日復一日地拖延，終於到最近她覺得在大聲說話和吞口水時頸部都會感到痛楚，甚至連家人都可以憑肉眼看到她頸上有個可疑的東西……結果就立即找我老公幫媽媽做了超聲波檢查和抽針化驗，證實了那個東西其實是甲狀腺癌細胞，必須要立即安排做手術全切除！現在的她康復情況良好，手術過程順利，憑藉老公純熟謹慎的技巧，使病人在手術後並沒有出現聲音沙啞或手腳麻痺等常見副作用……附圖一是手術完成後的即時狀況，附圖二是完成手術後大約十天拍攝的，可見頸上的疤痕癒合情況良好，再過一段時間傷口上啡色的皮完全褪掉，病人便可以開始使用去疤貼除疤了……”

A post dated 12 August 2020

“... 今天老公又再次替病人開刀做甲狀腺全切除手術，這位女病人三十多歲，已婚，她的甲狀腺發炎已經有好多年了，一直都用藥物控制病情，但最近一年驗血檢查的結果一直偏差，眼睛看上去也好像比以前突了好多，她自己也覺得頗為困擾！再加上原來她一直有個心願，就是希望懷孕當媽媽，但又擔心治療甲狀腺發炎的藥物會影響懷孕和胎兒成長，在徵詢過公立醫院專科醫生的建議和私人執業專科醫生（即是我老公）的意見後，最終她決定做手術切除整條發炎的甲狀腺，以後只需每日服食甲狀腺補充劑

便可以了……這樣待她慢慢調理好身體便可以準備懷孕了……近期不約而同地收到有幾位朋友留言向我查詢，究竟在什麼情況下需要找外科專科醫生幫忙呢？其實範圍都比較廣泛，例如腸胃鏡檢查（相信好多朋友都試過做了），腸癌手術，胃癌手術，膽囊切除，痔瘡，小腸氣，甲狀腺全切除或半切除，脂肪瘤割除，割包皮，急性盲腸炎切除手術……等等，所以都可算是包括很多不同範疇的身體狀況都會照顧得到，如果大家遇到以上的問題，記得要找值得信賴的外科醫生盡快處理，不要違疾忌醫，延誤治療的機會啊……”

#### A post dated 28 September 2020

“幫病人割脂肪瘤，是老公經常有做的手術，但一次過要割除十八粒脂肪瘤，就真係第一次了……而且病人更是一個接近三百磅的大胖子!!!由於他的脂肪瘤合共有十八粒，遍佈在背脊，前腹，及兩邊手臂，再加上病人被推入手術室的時間比原定遲了二十分鐘，因為 book 了同一手術室做上一台手術的醫生延遲了完成，所以老公唯有分秒必爭，因為他希望能夠在預計的兩小時內完成手術，不想令預約了下一台手術的醫生因為自己超時而耽誤了時間……結果老公集中精神，手起刀落，爭分奪秒，就像大家玩電腦遊戲“打大佬”一樣，將脂肪瘤逐粒 KO，剝開皮膚，取出腫塊，縫合傷口，一二三四，五六七八九……終於完成了一半，切除了前腹位置和手臂的脂肪瘤後，老公要聯同麻醉科醫生及兩位手術室護士，合四人之力把大胖子病人的身體由面部朝上的姿勢，反轉到背面，以切除背脊上剩餘的脂肪瘤!!!大家可以想像一下，要移動一個三百磅大胖子的確不是輕而易舉的事，因為要小心處理，不要弄到病人前腹和手臂的傷口!!!幸好四個人一齊合作出力搬動，結果都順利做到!!!但可能大家都有點緊張，而且被全身麻醉了的身體也實在是太重，之後大家都有點氣喘呢!!!好!老公不敢怠慢，繼續集中精神“打大佬”，終於順利 KO 背脊上剩餘的脂肪瘤!!!待老公確認背部的傷口沒問題了，便再次四人合作，把大胖子由趴睡的姿勢反轉過來，回復仰睡狀態，然後等待老公檢查清楚前腹和手臂的傷口都沒問題了，術後病人情況良好，當晚已經可以吃粥了!!!留院一晚，第二天中午已經可以出院了!!!老公話今次真的有點像打仗一樣，幸好與麻醉科醫生和手術室護士一起各司其職，完美合作，才能在遲了開始手術的情況下又能夠順利在預定時間完成手術……”

#### A post dated 30 September 2020

“今日老公收到醫院寄出的化驗報告，大家從相片中可以一次過看到很多很多粒來自這位病人身體內的脂肪瘤!由於某些瘤體積比較大，所以要切細一點去做化驗，因此大家可以見到總數是超過十八粒!”

### A post dated 3 October 2020

“【一樣米養百樣人】.....事緣老公今天早上到醫院，替一位女病人做手術割除皮膚粉瘤，由於只是一項小手術，過程順利，很快便完成，病人也只需要休息一小時便可以離開，臨走時前往醫院會計部付款及辦理出院手續.....就在會計部櫃檯前，這位女病人看到帳單，發現自己除了保單已經涵蓋的範圍以外，多出的金額（\$1,280）是要她自己負責付清的款項！她立即面色一沉，繼而大發雷霆，大吵大嚷說那多出的金額是什麼意思.....她告訴會計部職員說她拒絕付款，因為她的保單是應該“一元也不用付”的.....老公行醫超過 23 年，什麼病人都遇過.....”

### A post dated 11 October 2020

“【耳前瘻管手術】... 老公在剛剛過去的星期六早上便幫病人完成了“左右兩邊的耳前瘻管手術”.....患者會在耳廓上方和臉部交接處有一小洞，多數為單耳，25-50%的患者是雙耳都有，就像老公今次要協助的這位病人便是兩邊都有的患者.....如果有以上提到的感染問題，此時就需要尋求專科醫生的檢查與治療，如果接受抗生素治療後仍然無效，就需要考慮接受手術切除，就像老公今次協助的病人一樣，因為多次反覆發炎所以決定要做手術切除瘻管，不想再被這個小洞折磨了！病人在手術後情況良好，只休息了一個晚上便可以出院回家了！從相片中可以看到手術疤痕並不深，病人甚至說這兩條疤痕根本不算什麼，完全不明顯，待頭髮重新長出後便可以完全遮蓋著了...”

### A post dated 17 December 2020

“數天前老公收到病人親屬送來的聖誕節禮物籃，原來是之前老公幫一位七十多歲婆婆進行了左邊乳房切除手術，因為婆婆不幸發現乳房有癌腫瘤.....手術進行得非常順利，癌細胞已經完全切除，婆婆由於年紀大，腫瘤科醫生不建議她在手術後進行化療，並認為她的情況適合服食對抗乳癌的荷爾蒙藥物作手術後治療，這樣應該是最能夠切合婆婆的康復需要！病人的女兒希望答謝老公，在手術前跟她的媽媽面談了很長時間，細心講解不同的乳房切除方法，期望找出最適合媽媽的方式，並且搜集了有關的手術後相片，好讓她的媽媽有個概念知道究竟完成後，自己乳房上的疤痕會是什麼模樣...其實坦白說，一個乳癌病人看到那些照片，心情一定不會好受.....但老公告訴我，這位婆婆非常勇敢面對自己的病情，甚至告訴老公：“只管幫我切除吧.....我有足夠心理準備，自己都已經活了大半世人，手術疤痕美不美都沒有所謂了...”老公告訴她：“婆婆請放心，所有病人找我做手術，即是表達了對我專業資格的信任，因此放心將身體交給我！我也必

定不負所托，盡力地好好完成手術，為你的康復之路出一分力！而且，“乳房”對於女性來說是非常重要的器官，即使現在發現了癌細胞，都可以做手術盡量清除，再者，不論幾多歲的女性，年輕的還是年長的，我都會一視同仁，盡力細心縫好乳房上的傷口，希望疤痕癒合效果理想.....老公話因為不想自己有任何錯漏，而影響婆婆的手術成效，所以事前一定要做足功課.....他這份堅持，的確是病人的福氣...”

#### A post dated 14 March 2021

“...這位女病人今年七十歲，好不幸在上年11月份被證實患上腸癌四期，並且發現癌細胞已經擴散到肝臟和腹膜.....過去的兩星期她開始出現氣促，直至今日下午由於太辛苦所以被家人送進醫院，她的主診腫瘤科醫生於是立刻通知老公盡快趕過來幫忙治療！老公到達後第一時間查看病人的X光片（圖一），一看就知道情況相當不妙，右邊肺部有一大片積水，其實肺部有積水問題好大機會是由於病人的腸癌情況已經比上年11月份確診時再進一步擴散，真的非常不幸.....二話不說，老公立刻替病人抽走肺部積水（圖二），但抽出來的積水，在顏色和形態上都令老公感覺不太樂觀，使他非常擔心這位女病人的身體狀況.....但老公都盡力安慰這位女士，告訴她即使如此，現在仍然有藥物可以幫助控制病情的！但心底裏其實老公都知道，病人的.....顯示更多”

#### A post dated 11 April 2021

“星期日的下午，老公需要到醫院巡房，因為他昨天幫兩位病人完成了痔瘡手術，於是今天要前往探望他們及檢查傷口.....我就如平常一樣返回老公的診所，協助整理一下文件和清潔打掃地方.....打掃期間無意之中發現這張病人家屬送來的感謝卡，原來是幾個月前老公曾經協助過的一位腸癌病人的女兒寫給老公的心意卡.....她的媽媽不幸患上腸癌末期，身體狀況非常差，幾個月前因為腸道出血被送入醫院，由腫瘤科主診醫生通知我老公去協助治療.....老公盡力地幫婆婆穩定維生指數，成功制止了腸道出血，令婆婆由入院時的神智不清變回正常意識，最終甚至能夠出院回家休養.....雖然婆婆自己和家人都知道，病情嚴重程度已經達到藥石無靈的地步，但婆婆只是希望可以回家，逐一跟親人道別，共渡生命最後的時光.....終於在一個月後，婆婆在親人陪伴下，在家中安祥地返回了天家...”

#### A post dated 11 June 2021

“最近老公收到一位女病人送來的朱古力，感謝老公大約一年前替她做手術切除乳房腫瘤，並因應她的經濟負擔替她寫轉介信，讓她能夠到政府醫

院登記腫瘤科繼續跟進接受治療，目前她已完成化療，身體狀況康復得很理想，頭髮也慢慢地重新再長出來...”

10. According to the Defendant’s submission to the Preliminary Investigation Committee (“PIC”) dated 19 October 2022, the Facebook Page was created by the Defendant’s wife on 24 April 2020. The Defendant’s wife worked as the Clinic Manager at the Defendant’s clinic, thus was aware of the daily operations of the Clinic as well as the types of cases handled by the Defendant. The Posts were created by the Defendant’s wife for sharing episodes of the Defendant’s life as a surgeon.
11. The Posts showed the telephone number of the Defendant’s clinic. It showed some photographs of the Defendant. One photograph even showed the Defendant dressed up in surgical attire inside the operating theater, and this photograph was in fact used as the profile photograph of the Facebook Page. There was reference to the Defendant’s Chinese name together with the doctor’s title in the post dated 2 June 2020. Readers could easily relate that the reference to the writer’s “老公” in the Posts was the Defendant. There were also published photographs of letters of gratitude and gifts from patients to the Defendant.
12. The Posts did discuss in some details the medical conditions and related matters of each of these patients. For the post dated 2 June 2020, there were two photographs showing the post-operative wound condition of the patient. For the post dated 30 September 2020, there was a photograph showing the lipomas removed from a patient’s body. Obviously, the Posts contained medical information of the Defendant’s patients. Revealing the medical information of patients in such callous manner was definitely not allowed, and was a blatant contravention of the Code.
13. Looking at the Posts as a whole, or at each of them independently, whilst the contents might appear anecdotal, the context conveyed to the readers or the public was that the Defendant was diligent, experienced and skillful in his practice. Besides context, the following statements were obviously promotional and canvassing in nature:

“... 憑藉老公純熟謹慎的技巧，使病人在手術後並沒有出現聲音沙啞或手腳麻痺等常見副作用...”(from the post dated 2 June 2020);

“... 幫病人割脂肪瘤，是老公經常有做的手術...” (from the post dated 28 September 2020);

“...老公行醫超過 23 年，什麼病人都遇過...”(from the post dated 3 October 2020);

“...婆婆請放心，所有病人找我做手術，即是表達了對我專業資格的信任，因此放心將身體交給我！我也必定不負所托，盡力地好好完成手術，為你的康復之路出一分力...” (from the post dated 17 December 2020);

“...老公話因為不想自己有任何錯漏，而影響婆婆的手術成效，所以事前一定要做足功課...” (from the post dated 17 December 2020)

14. The Posts remained published to the public on the Facebook Page for a relatively long period of time, from the respective dates when they were published, to at least the date when they were extracted by the Council’s secretariat on 11 May 2022. In fact, the Defendant acknowledged in his PIC submission dated 19 October 2022 that the Facebook Page was officially shut down only on 9 September 2022.
15. We are satisfied that in or about 2020 to 2022, the Defendant had failed to take adequate steps to prevent the publication of his photo(s) and promotional statement(s) of his experience and/or skills in relation to his practice, and the publication of medical information of his patients on the Facebook Page. The Defendant had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect for both charges (a) and (b).

### **Sentencing**

16. The Defendant has a clear disciplinary record.
17. 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.

18. In June 2006, the Council adopted that all future cases of practice promotion not allowed under the Code 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.
19. We have considered the records of CME attendance and participation in voluntary/community work of the Defendant. We have also considered the character reference letters as submitted.
20. The Defendant accepts that it was his professional responsibility to ensure that he and his staff, including his wife as the Clinic Manager, were aware of the rules under the Code and not in breach of them. The Defendant had asked his wife to close down the Facebook Page. The Facebook Page was officially shut down on 9 September 2022.
21. To avoid a similar incident from happening again, the Defendant has educated his wife and all his clinic staff regarding the Code, in particular, the restrictions surrounding dissemination of information and practice promotion. The Defendant said he would make sure that any new staff joining the clinic would be educated personally by him of the Code. The Defendant said he has been actively attending CME lectures and courses relating to medico-legal issues, with special focus on practice promotion/information dissemination, with a view to improving and enhancing his knowledge on how to avoid transgressing the Code again.
22. With all these remedial steps in place, we are satisfied that the risk of re-offending is low.
23. Taking into consideration the nature and gravity of the disciplinary charges for which the Defendant is convicted and what we have heard and read in mitigation, we make a global order in respect of both charges (a) and (b) that the Defendant's name be removed from the General Register for a period of 3 months; and the operation of the removal order be suspended for a period of 12 months.

**Remark**

24. The name of the Defendant is registered in the Specialist Register under the specialty of General Surgery; and we shall leave it to the Education and

Accreditation Committee to decide on whether anything needs to be done in respect of his specialist registration.

Prof. TANG Wai-king, Grace, SBS, JP  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong