

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE INQUIRY PANEL OF
THE MEDICAL COUNCIL OF HONG KONG

DR PONG CHIU FAI (REGISTRATION NO.: M12144)

It is hereby notified that after due inquiry held on 25 May 2023 in accordance with section 21 of the Medical Registration Ordinance, Chapter 161 of the Laws of Hong Kong, the Inquiry Panel of the Medical Council of Hong Kong found Dr PONG Chiu Fai (Registration No.: M12144) guilty of the following charges:—

“That, in or about May 2021, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:—

- (i) the publication / use / appearance of his name, title, photo, the promotional statement(s) / information, including but not limited to, that “中心醫務行政總監龐朝輝醫生將物色更多專業眼科醫生進駐各區的醫療中心，以相宜的價錢為更多市民提供全面的眼科服務” and “儲積分換禮物更著數 眼鏡 88 全新網店及門市會員計劃現已推出，消費每 1 元可賺 1 積分，讓客人輕鬆兌換禮品或服務… 並提供更多優惠” on the Article named “香港首間眼鏡 88 眼科醫療中心 一站式眼科診斷治療 服務市民” published on the local newspaper “am730” on 28 May 2021, thereby promoting or endorsing various medical / Ophthalmology treatment(s) and/or gift redemption scheme provided by Optical 88 Ophthalmology Centre / Optical 88 Limited (“Optical 88”), and/or thereby canvassing for the purpose of obtaining patients in respect of his practice in association with Optical 88; and/or*
- (ii) the publication / use / appearance of his name, title, photo, the promotional statement(s) / information and/or interview record(s) / statement(s), including but not limited to, that “眼鏡 88 眼科醫療中心醫務行政總監龐朝輝醫生表示，治療白內障唯一最有效方法是透過超聲波技術將混濁晶狀體乳化吸出再植入全新單焦距或多焦距人工晶狀體，整個過程只需 15 分鐘，傷口會自然癒合無須縫線” and “著數貼士：眼鏡 88 全新網店及門市會員計劃，消費每 1 元可賺 1 積分，輕鬆換領禮品或服務。” on the Article named “眼鏡 88 眼科醫療中心正式開幕 一站式專業眼科診斷及治療” published on a local newspaper, thereby promoting or endorsing various medical / Ophthalmology treatment(s), including but not limited to, ultrasound treatment of cataract, and/or gift redemption scheme provided by Optical 88, and/or thereby canvassing for the purpose of obtaining patients in respect of his practice in association with Optical 88.*

In relation to the facts alleged, whether individually or cumulatively, he has been guilty of misconduct in a professional respect.”

2. On 31 May 2021, the Medical Council received a letter dated 28 May 2021 from a group of anonymous complainants complaining against Dr PONG for impermissible practice promotion.
3. Attached to the letter were copies of an article entitled “香港首間眼鏡 88 眼科醫療中心 一站式眼科診斷治療 服務市民” published in the local newspaper “am730” on 28 May 2021 (“1st Article”); and an article entitled “眼鏡 88 眼科醫療中心正式開幕 一站式專業眼科診斷及治療” published in a local newspaper (“2nd Article”).
4. Optical 88 is a commercial eyewear chain store in Hong Kong. In or around May 2021, Optical 88 opened a clinic called Optical 88 Ophthalmology Centre (“the Clinic”). At all material times, Dr PONG was the Chief Medical Executive of the Clinic. The 1st and 2nd Articles were published by Optical 88 in relation to the opening ceremony of the Clinic in May 2021.
5. The 1st Article contained, *inter alia*, the following contents:—
 - (i) reference to the name, doctor’s title and photograph of Dr PONG;
 - (ii) a statement which read “…中心醫務行政總監龐朝輝醫生將物色更多專業眼科醫生進駐各區的醫療中心，以相宜的價格為更多市民提供全面的眼科服務。”;
 - (iii) a box at the bottom right corner which read “儲積分換禮物更著數 眼鏡 88 全新網店及門市會員計劃現已推出，消費每 1 元可賺 1 積分，讓客人輕鬆兌換禮品或服務… 並提供更多優惠” together with a contact phone number and address of the Clinic; and
 - (iv) the words “資料由客戶提供” at the bottom right corner.

6. The 2nd Article contained, *inter alia*, the following contents:—
- (i) a photo of the interior of the Clinic with the contact phone number and address underneath;
 - (ii) reference to the name, doctor's title and photograph of Dr PONG;
 - (iii) a statement which read “眼鏡 88 眼科醫療中心醫務行政總監龐朝輝醫生表示，治療白內障唯一最有效方法是透過超聲波技術將混濁晶狀體乳化吸出再植入全新單焦距或多焦距人工晶狀體，整個過程只需 15 分鐘，傷口會自然癒合無須縫線。”;
 - (iv) a statement at the bottom which read “著數貼士：眼鏡 88 全新網店及門市會員計劃，消費每 1 元可賺 1 積分，輕鬆換領禮品或服務。”; and
 - (v) the words “資料由客戶提供” at the bottom right corner.
7. It is stipulated in the Code of Professional Conduct (2016 edition) (“Code”) that:—

“5.1.3 *Persons seeking medical service for themselves or their families can nevertheless be particularly vulnerable to persuasive influence, and patients are entitled to protection from misleading advertisements. Practice promotion of doctors' medical services as if the provision of medical care were no more than a commercial activity is likely both to undermine public trust in the medical profession and, over time, to diminish the standard of medical care.*

...

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:-*

(a) *be exaggerated or misleading;*

...

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

(e) *be used for commercial promotion of medical and health related products and services ...*

...

5.2.2 *Practice promotion*

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.*

...

18.2 *A doctor who has any kind of financial or professional relationship with, uses the facilities of, or accepts patients referred by, such an organization, must exercise due diligence (but not merely nominal efforts) to ensure that the organization does not advertise in contravention of the principles and rules applicable to individual doctors. Due diligence shall include acquainting himself with the nature and content of the organization's advertising ...”*

8. When looking at the contents of the 1st Article as a whole, the Inquiry Panel had no doubt that they were promotional of the various medical/ophthalmology treatments and the gift redemption scheme provided by Optical 88 and/or the Clinic. The 1st Article contained clear statements that canvassed for medical patients to pay visit to the Clinic. The 1st Article also

contained a statement with these words “以相宜的價格”, which implication must be that their doctors’ consultation fees were all the more reasonable. This again had the effect of soliciting or canvassing for patients.

9. Dr PONG was quoted to be the person in the 1st Article to say that their doctors’ consultation fees were all the more reasonable. This clearly was for the purpose of soliciting or canvassing for patients. Dr PONG’s name, doctor’s title and photographs appeared in the 1st Article. He was also referred to therein as the Chief Medical Executive of the Clinic. These no doubt would give the impression that Dr PONG endorsed the promotional and canvassing statements, which was impermissible under the Code. By failing to take adequate steps to prevent the publication of the offending promotional and canvassing statements in the 1st Article, Dr PONG had in view of the Inquiry Panel fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, Dr PONG was found guilty of misconduct in a professional respect as per charge (i).

10. Turning to the 2nd Article, again they were promotional of the various medical/ ophthalmology treatments, including but not limited to, ultrasound treatment of cataract, and the gift redemption scheme provided by Optical 88 and/or the Clinic. The 2nd Article contained clear statements that canvassed for medical patients to pay visit to the Clinic. The 2nd Article also quoted Dr PONG to be the person who claimed that the ultrasound treatment of cataract offered by the Clinic just took 15 minutes to complete (“整個過程只需 15 分鐘”). The claim that their ultrasound treatment of cataract could be done in just 15 minutes was for the purpose of soliciting or canvassing for patients.

11. Dr PONG’s name, doctor’s title and photograph appeared in the 2nd Article. He was also referred to therein as the Chief Medical Executive of the Clinic. These no doubt would give the impression that Dr PONG endorsed the promotional and canvassing statements, which was impermissible under the Code.

12. By failing to take adequate steps to prevent the publication of the offending promotional and canvassing statements in the 2nd Article, Dr PONG had in view of the Inquiry Panel fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, Dr PONG was found guilty of misconduct in a professional respect as per charge (ii).

13. Taking into consideration the nature and gravity of the disciplinary charges for which Dr PONG was found guilty and what the Inquiry Panel had heard and read in mitigation, the Inquiry Panel ordered that the name of Dr PONG be removed from the General Register for a period of 1 month and that the operation of the removal order be suspended for a period of 3 months.

14. The orders are published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. Full decision of the Inquiry Panel of the Medical Council is published in the official website of the Medical Council of Hong Kong (<http://www.mchk.org.hk>).

TANG Wai-king, Grace *Temporary Chairman,*
The Medical Council of Hong Kong