

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR TONG HOI DIK EDDIE (REGISTRATION NO.: M13261)

It is hereby notified that after due inquiry held on 27 July 2022 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 ('Inquiry Panel') found Dr TONG Hoi Dik Eddie (Registration No.: M13261) guilty of the following disciplinary charges:—

'That in or about 2019 to 2020, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:—

- (a) *the publication of his photo and promotional statements of his experiences and/or skills in relation to his practice at Cosmed (映匯醫學集團) ('Cosmed') on the Instagram page of Cosmed;*
- (b) *the publication of impermissible promotional and/or canvassing statement(s) on the said Instagram page:—*
 - (i) *'搵一個嘅醫美行業經驗豐富、醫歷深、手勢好的香港註冊醫生';*
 - (ii) *'希望你吾好成為下一個要搵我哋顧問醫生拯救的一份子'; and/or*
 - (iii) *'#我們不是美容院 #顧問醫生 #二十年醫學經驗 #科研美肌 #不硬銷不取巧 #專業安全有效 #Cosmed #映匯醫學集團 #世上沒有免費午餐 #微創手術 #去眼袋 #吊線雙眼皮 #雙眼皮手術 #無痕去眼袋';*
- (c) *the publication of the statement which exaggerates the efficacy of aesthetic medical practice and/or treatment(s) on the Facebook page of CosMed: '『Cosmed 無痕去眼袋療程』適合所有眼袋類型，去除眼袋效果理想，做完比之後真實年齡更後生、更醒神。只需30分鐘，唔駛開刀，唔留疤痕，復原期短！'; and/or*
- (d) *the use of his photograph(s) and statements on the Facebook page of 'Tommy Ko' which promoted or endorsed his aesthetic medical practice and/or treatment(s).*

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect.'

2. Dr TONG's name has been included in the General Register from 3 July 2001 to the present. His name has never been included in the Specialist Register.

3. Dr TONG acquired CosMed Group HK Limited (映匯醫學集團有限公司) ('Cosmed') in December 2019. According to the Annual Return filed with the Companies Registry dated 14 June 2020, Dr TONG was the sole shareholder and director of Cosmed. Since the acquisition, and at all material times, Dr TONG has been in private practice as a medical practitioner at Cosmed.

4. The Medical Council received two complaints on 8 October 2020 and 10 January 2021 via emails against Dr TONG of practice promotion. Attached to the emails were pages downloaded from the Instagram and Facebook pages of Cosmed and the Facebook page of a 'Tommy Ko'.

5. Dr TONG admitted to the factual particulars of Charges (a) to (d). The Inquiry Panel adopted the following statement of the law by Ma CJHC (as he then was) in Kwok Hay Kwong v Medical Council of Hong Kong [2008] 3 HKLRD 524 at 541-542 as guiding principle:—

'32. ... it is important also to recognize the following facets of advertising ...

- (1) *The public interest as far as advertising is concerned lies in the provision of relevant material to enable informed choices to be made ...*
 - (2) *The provision of relevant material to enable informed choices to be made includes information about latest medical developments, services or treatments.*
33. *In contrast to these what may be called the advantages of advertising just highlighted, it is, however, also important to bear in mind the need to protect the public from the disadvantages of advertising. Misleading medical advertising must of course be guarded against. In Rocket v Royal College of Dental Surgeons (Ontario), McLachlin J referred*

(at p.81g) to the danger of 'misleading the public or undercutting professionalism'. In *Stambuck v Germany*, the European Court of Human Rights said, 'nevertheless, it [advertising] may sometimes be restricted, especially to prevent unfair competition and untruthful or misleading advertising'. There were references made in both cases to the need to limit commercialism to enable high standards of professionalism to be maintained.'

6. It is also stipulated in the Code of Professional Conduct (2016 edition) ('Code') that:—

5.1.3 ... *Practice promotion of doctor's 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.*

...

5.2.1.1 *Any information provided by a doctor to the public or his patients must be:—*

...

(d) *presented in a balanced manner (when referring to the efficacy of particular treatment, both the advantages and disadvantages should be set out).*

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 ...;*

(f) *be sensational or unduly persuasive;*

...

(h) *generate unrealistic expectations;*

...

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.*

...

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.'

Charge (a)

7. The Instagram page of Cosmed posted on 12 August 2020 clearly showed the name and photograph of Dr TONG, with a description of him as 'Our Consultant Doctor我們的顧問醫生'. It also showed the address and telephone number of Cosmed. That page also contained the following statement '搵一個係醫美行業經驗豐富、醫歷深、手勢好的香港註冊醫生'. That statement was repeated three times.

8. When looking at the overall layout of that page, clearly the said statement was referring to Dr TONG, and was promotional of his experience and skills in relation to his practice at Cosmed. That amounted to practice promotion, which was not allowed under section 5.2.2.2 of the Code.

9. For the reasons listed above, Dr TONG had in the view of the Inquiry Panel by his conduct fallen below the standard expected of registered medical practitioners in Hong Kong. The Inquiry Panel found Dr TONG guilty of charge (a).

Charge (b)

10. In addition to the statement mentioned in paragraph 7 above, the Instagram page also contained the following statements:

‘希望你吾好成為下一個要搵我哋顧問醫生拯救的一份子’

‘#我們不是美容院 #顧問醫生 #二十年醫學經驗 #科研美肌 #不硬銷不取巧 #專業安全有效 #Cosmed #映匯醫學集團 #世上沒有免費午餐 #微創手術 #去眼袋 #吊線雙眼皮 #雙眼皮手術 #無痕去眼袋’

11. Those statements (at paragraphs 7 and 10 above) gave readers the impression that Cosmed's consultant doctor, which was Dr TONG, was very experienced and skillful in the field. The suggestion to readers was that Dr TONG would be able to save ('拯救') them, so they should consult him.

12. The Inquiry Panel had no doubt that the true intent and purpose of all those statements (at paragraphs 7 and 10 above) were to solicit and canvass for patients, which was not allowed. Dr TONG was clearly in breach of section 5.2.1.2 of the Code.

13. For the reasons stated above, Dr TONG had in the view of the Inquiry Panel by his conduct fallen below the standard expected of registered medical practitioners in Hong Kong. The Inquiry Panel found Dr TONG guilty of charge (b).

Charge (c)

14. The Facebook page of Cosmed posted on 3 September 2020 contained the following statement: '『Cosmed 無痕去眼袋療程』適合所有眼袋類型，去除眼袋效果理想，做完比之後真實年齡更後生、更醒神。只需30分鐘，唔駛開刀，唔留疤痕，復原期短！’

15. As provided for in section 5.2.1.1(d) of the Code, any information provided by a doctor to the public must be presented in a balanced manner; and when referring to the efficacy of a particular treatment, both the advantages and disadvantages should be set out.

16. The said statement published in the Facebook page of Cosmed did not set out any disadvantage of the treatment. The references to '適合所有眼袋類型' and '做完比之後真實年齡更後生、更醒神' gave readers the impression that the operation could apply to everybody and could achieve 100% successful results. In the view of the Inquiry Panel, there could never be any operation that could apply to everybody, and could never be any operation that could achieve 100% successful results. That was just common sense. Those statements were nothing but exaggerating.

17. For the reasons stated above, Dr TONG had in the view of the Inquiry Panel by his conduct fallen below the standard expected of registered medical practitioners in Hong Kong. The Inquiry Panel found Dr TONG guilty of charge (c).

Charge (d)

18. The Facebook page of Cosmed with posting date and time '5月30日 07.00' showed that the team of Cosmed was invited by AIA Hong Kong to give a talk on aesthetic medical practice. There were two photographs in that page, showing Dr TONG giving a talk with the backdrop written those words '醫美新趨勢'.

19. Tommy Ko in his Facebook page posted on 29 May 2020 shared similar photographs showing the presence of Dr TONG at the event giving the talk, and with the backdrop with those words ‘醫美新趨勢’. Tommy Ko’s Facebook page also contained that statement ‘感謝醫美大師Dr Tong的分享，並提供高端醫療平台，合作愉快’. Clearly, that statement together with the photographs was referring to Dr TONG.

20. Tommy Ko in his Facebook page posted on 12 June 2020 contained those statements: ‘Happy Friday, 雖然不能喝酒，但為了消滅個大眼袋，值得’and ‘感謝湯醫生的神手’.

21. The Inquiry Panel had no doubt that the references to ‘醫美大師Dr Tong’, ‘提供高端醫療平台，合作愉快’ and ‘感謝湯醫生的神手’ in Tommy Ko’s Facebook pages only served to promote or endorse the aesthetic medical practice and/or treatment of Dr TONG.

22. Dr TONG said in his submission received by the Medical Council on 10 January 2022 that Tommy Ko was his patient and he was invited by Tommy Ko to give a talk at some event. Dr TONG however said that he had no knowledge of the contents of Tommy Ko’s post in his Facebook page.

23. In the view of the Inquiry Panel, Dr TONG was invited and he in fact gave a talk on aesthetic medical practice at the company’s event. Photographs were taken of him giving the talk. In one of the group photographs, he was seen sitting in the middle of the front row, holding some kind of a certificate or prize in his hand. It could not be said that Dr TONG did not know that he was photographed. That type of event and with photographs of him taken clearly called for caution that his name and photographs might be used by the entity inviting him, and which actually happened in that case. It was no excuse for Dr TONG to simply say that he had no knowledge of Tommy Ko’s post. Dr TONG should have taken proactive actions or forewarned Tommy Ko, but he had not done so.

24. For the reasons stated above, Dr TONG had in the view of the Inquiry Panel by his conduct fallen below the standard expected of registered medical practitioners in Hong Kong. The Inquiry Panel found Dr TONG guilty of charge (d).

25. In the view of the Inquiry Panel, the unauthorised practice promotion in that case happened over a long period of time, and Dr TONG had done nothing. There were not just one, but a number of incidents of unauthorised practice promotion. The gravamen of his misconduct was serious.

26. Taking into consideration the nature and gravity of the disciplinary charges and what was heard and read in the mitigation, the Inquiry Panel made a global order in respect of all charges (a) to (d) that Dr TONG’s name be removed from the General Register for a period of 2 months. The Inquiry Panel further ordered that the operation of the removal order be suspended for a period of 24 months

27. The order is published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. The 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>).

LAU Wan-ye, Joseph *Chairman, The Medical Council of Hong Kong*