

DENTISTS REGISTRATION ORDINANCE (Chapter 156)

ORDER MADE BY THE DENTAL COUNCIL OF HONG KONG

It is hereby notified that the Dental Council of Hong Kong (“the Council”), after due inquiry held on 7 September 2023 in accordance with section 18 of the Dentists Registration Ordinance, Chapter 156 of the Laws of Hong Kong, found Dr YU, Barry (“Dr YU”) (Registration No. D04128) guilty of the following charge:—

“In or about March 2021, he, being a registered dentist, engaged in impermissible practice promotion by sanctioning, acquiescing in or failing to take adequate steps to prevent the publication of the advertisement(s) of his website www.pennpacificdental.com, which was in association with his practice, in the web based search engine at <https://google.com>.

In relation to the facts alleged, he has been guilty of unprofessional conduct.”

Briefly stated, a complaint via email was received by the Dental Council on 10 March 2021 against Dr YU for unauthorized practice promotion by publishing an advertisement of the website www.pennpacificdental.com in the web based search engine at <https://google.com>. Attached to the complaint were, *inter alia*, copies of two Google Search webpages (“Google Search Webpages”).

Dr YU admitted the factual particulars of the charge against him. However, it remained for the Council to consider and determine whether in respect of the charge Dr YU was guilty of unprofessional conduct.

It was stipulated in the Code of Professional Discipline for the Guidance of Dental Practitioners in Hong Kong (December 2019 edition) (“Code”) that:—

“1.2.3 *Practice Promotion*

1.2.3.1 *Practice promotion means publicity for promoting the professional services of a dentist, his dental practice or his group, which includes any means by which a dentist or his dental 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.*

1.2.3.2 *Practice promotion by individual dentists, or by anybody acting on their behalf or with their forbearance, to people who are not their patients must comply with section 1.3.*

...

1.3.5 *Practice websites*

1.3.5.1 *A dentist may publish his professional service information in his practice website or the website of a bona fide dental practice group ...*

1.3.5.2 *The website must comply with the requirements set out in Appendix F.*

...

2. *CANVASSING*

2.1 *Canvassing for the purpose of obtaining patients, either by himself, his servants, agents or others whether directly or indirectly, and association with or employment by persons or organisations which canvass, may lead to disciplinary proceedings ...*

...

Appendix F: GUIDELINES ON DENTAL PRACTICE WEBSITE

...

A dentist shall not enter into any form of arrangement, whether by way of advertising or otherwise, with telephone companies or companies of web based search engines, for prioritization of his search ranking or the search ranking of the dental practice group or groups which he belongs to.”

According to the Annual Return of Prime Vision International Limited (“PVIL”) as at 12 December 2021, Dr YU was its shareholder and director. According to the Certificate of Change of Name dated 15 June 2022, PVIL changed its name to Penn Pacific Dental Center Limited (“PPDCL”).

One of the Google Search Webpages was searched upon the entering of the key words “智慧齒”, and its search result generated, amongst other advertisements unrelated to this case, the following contents:—

“Ad · www.pennpacificdental.com/

DR BARRY 中環牙醫診所——常規及手術
拔牙, 拔智齒

位於中環, 牙科醫學博士提供專業牙科檢查診症, 及牙齒美容等服務。牙周治療, 預防性牙科, 修復牙科, 美容牙科, 根管治療, 兒童牙科, 服務: 種牙, 洗牙, 美白。

牙科服務 牙醫學博士 我們的診所”

Another Google Search Webpage was searched upon the entering of the key words “補牙”, and its search result generated, amongst other advertisements unrelated to this case, the following contents:—

“Ad · www.pennpacificdental.com/

補牙——Penn Pacific Dental Center

提供全方位牙科服務, 包括種牙, 洗牙, 牙齒矯正、美白, 杜牙根及智慧齒等。位於中環, 提供牙科檢查、診症服務, 以及種牙、隱形箍牙、牙齒美白等。

牙科服務
牙醫學博士
我們的診所
Call 2869 0121”

There was no dispute that the web address of www.pennpacificdental.com/ was the web address of PPDCL (at the material time still in the name of PVIL) which Dr YU’s practice was in association with.

The word “Ad” in the contents clearly showed that they were advertisements of PPDCL/PVIL. Dr YU wrote in his submission to the Preliminary Investigation Committee (“PIC”) dated 8 April 2022 that *“information on the website pertaining the dental services offered by [PPDCL/PVIL] are compiled and published as part of the marketing campaigns and strategies. At all relevant times, insofar as I am aware and to the best of my knowledge, all such marketing campaigns and strategies have been carried out in full compliance with all of the requirements under the Code with respect to the information on its website.”* At the inquiry, Dr YU’s Solicitor informed the Council that PPDCL/PVIL engaged a digital marketing agency to place the said advertisements in the Google search engine. Clearly this was advertising activity.

According to the information obtained by the Council Secretariat from the website of Google <https://ads.google.com/intl/en/home/faq/>, *“Google Ads ... is an online advertising solution that businesses use to promote their products and services on Google Search ... Google Ads works by displaying your ad when people search online for the products and services you offer. By leveraging smart technology, Google Ads helps get your ads in front of potential customers at just the moment they’re ready to take action ... Once your ad is approved, it can appear whenever users in your target area search for a product or service like yours. You only pay when users engage with your ad, like clicking your ad or calling your business.”* The Council was satisfied that prioritization of search ranking would be given to PPDCL/PVIL’s advertisements upon the entering of the keywords “智慧齒” and/or “補牙”.

Also, these advertisements provided a link of the website address of PPDCL/PVIL, and in one advertisement, also the telephone number of PPDCL/PVIL. The general public searching these keywords “智慧齒” and/or “補牙” would not only be directed to these PPDCL/PVIL’s advertisements, but could also click on the link provided or call the telephone number provided to contact Dr YU’s practice at PPDCL/PVIL.

Placing advertisements in Google Search engine is clearly not allowed and a contravention of the Code. Appendix F had also been contravened insofar as the provision proscribing dentist

from entering into arrangement with companies of web based search engines, for prioritization of search ranking of the dental practice is concerned.

Dr YU was the shareholder and director of PPDCL/PVIL. His name was even mentioned in one of these advertisements. Dr YU had a professional relationship with PPDCL/PVIL. As a registered dentist, Dr YU had the personal responsibility to ensure that the Code was complied with at all times. However, Dr YU had done nothing to ensure compliance with the Code, but simply allowed the digital marketing agency to place the advertisements on behalf of PPDCL/PVIL. In the Council's view, this was clearly unacceptable.

The Council was satisfied that Dr YU had acquiesced in and failed to take adequate steps to prevent the publication of the advertisements in the web based search engine of <https://google.com>. Dr YU's conduct had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency.

The Council therefore found Dr YU guilty of the charge.

Having regard to the gravity of the case and the mitigation submitted by Dr YU, the Council ordered that in respect of the charge, Dr YU be reprimanded. The Council's order shall be published in the *Gazette*.

In accordance with section 18(5) of the Dentists Registration Ordinance, the order of the Council shall be published in the Government of Hong Kong Special Administrative Region Gazette. The full judgment of the Council is published in the official website of the Council (<http://www.dchk.org.hk>).

LEE Kin-man *Chairman, Dental Council of Hong Kong*