

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 5 October 2023 in accordance with section 18 of the Dentists Registration Ordinance, Chapter 156 of the Laws of Hong Kong, found Dr NG Pui-ching ('Dr NG') (Registration No. D03769) guilty of the following charge:—

'In or about October 2019, he, being a registered dentist, sanctioned, acquiesced in or failed to take adequate steps to prevent dissemination of promotional materials, namely toothpaste and pamphlets, under the name of 'Joyful Smile Dental', with which he had, whether directly or indirectly, a financial and/or professional relationship and/or association and such activity amounted to advertising and/or canvassing for the purpose of obtaining business and patients and that in relation to the facts alleged, he has been guilty of unprofessional conduct.'

A complaint made by Ms 王麗莎 against Dr NG was received by the Dental Council on 7 November 2019. The complainant alleged, inter alia, that (i) on 29 October 2019, at 1.15 p.m. at No. 997 King's Road, a clinic assistant of Dr NG's clinic distributed toothpaste and promotional pamphlets to passers-by to give publicity to the opening of Dr NG's new clinic ('Allegation 1'); and (ii) Dr NG placed promotional pamphlets outside his clinic at East Pavilion ('Allegation 2'). A copy of the pamphlet was enclosed.

Dr NG 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 NG was guilty of unprofessional conduct.

The legal officer for the Secretary had told the Council that her case relied on both Allegations 1 and 2, and the successful proof of Allegation 1 would make out the Charge. The Council noted that Dr NG only admitted to the factual particulars of Allegation 1. The Council would therefore only look at Allegation 1, but not Allegation 2.

There was no dispute that at all material times Dr NG was practising at a clinic under the name of 'Joyful Smile Dental' with which he had a financial and professional relationship. According to the Annual Returns of Exact Dental Limited (which on 1 April 2022 changed its name to Joyful Smile Dental Limited) produced by the legal officer, at all material times, Dr NG was both the sole director and shareholder of the company.

The pamphlet consisted of the following contents:—

[LOGO] Joyful Smile Dental

樂意牙科中心

國際洗牙日

洗牙 \$ 200位(名額有限)

30/10/2019 (三)

報名熱線 : 2322 3296

Whatsapp: 5540 3266

地址 : 香港英皇道1010-1056號東匯坊LG層112號舖

Shop No. 112, LG/F, East Pavilion,

No. 1010-1056 King's Road, Quarry Bay, HK

只供本診所病人傳閱

It was stipulated in the Code of Professional Discipline for the Guidance of Dental Practitioners in Hong Kong (revised in July 2008) ('Code') that:—

'1.1 *Principles of Good Communication and Accessible Information*

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

...

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.*

...

1.5 *Unsolicited Visits or Telephone Calls*

Dentists' services may not be promoted by means of unsolicited visits, telephone calls, fax, electronic communications or publications by dentists or persons acting on their behalf or with their forbearance.

...

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. Except in an emergency the Council does not consider it permissible for a dental practitioner to call upon or communicate with any person who is not already a patient of his practice with a view to providing advice or treatment unless expressly requested to do so by that person or by a parent or guardian of that person ...*

The pamphlet showed the logo, name, contact telephone numbers and address of Dr NG's clinic. Scaling service was offered at HK\$200 per person, and it was said to be of limited numbers (i.e. '名額有限'). In the Council's view, the pamphlets were nothing but coupons. The contents gave readers the impression that the offer was a bargain and limited. Disseminating these coupon-like pamphlets was definitely promotional tactics treating dental service as if it was some kind of a commercial activity.

Although the pamphlet contained these words 'For circulation among the clinic's patients only' (i.e. '只供本診所病人傳閱'), the complainant said that the pamphlets were distributed to passers-by on King's Road. The complainant also said that toothpaste was distributed. Clearly, the aim or purpose of distributing toothpaste and pamphlets was to advertise and/or to canvass for businesses and patients, which was not allowed under the Code.

According to Dr NG's submission to the Preliminary Investigation Committee of the Dental Council dated 24 June 2022 ('PIC Submission'), at paragraph 4 thereof, Dr NG accepted that '*in or about October 2019, at the time that he was opening a clinic in Quarry Bay, promotional material namely toothpaste and pamphlets were provided to members of the public outside his clinic.*'

At paragraph 5 of the PIC Submission, Dr NG wrote '*[w]hilst it should be noted that this pamphlet was specifically stated to be for circulation amongst the clinic's patients only, [he] accepts that it is possible that copies of this pamphlet may have been given to members of the public when the toothpaste was handed out ...*'.

Despite what Dr NG wrote at the said paragraph 5 that pamphlet 'may have been given to members of the public', Dr NG clearly wrote at paragraph 8 of the PIC Submission the following: '*[f]inally, Dr Ng has asked us to make it clear to you that neither Dr Wong Kin nor Dr Cecilia Chan were aware that he intended to provide this promotional material to members of the*

public and they were certainly not involved in any way nor were they aware of the dissemination of this promotional material. Dr Ng wishes to accept full responsibility for the dissemination of the promotional material which took place on the basis that he is solely responsible for this activity.' This paragraph 8 showed that Dr NG had intention of the dissemination to the public.

The Council was satisfied that in or about October 2019, Dr NG had sanctioned, acquiesced in or failed to take adequate steps to prevent dissemination of promotional materials (i.e. toothpaste and pamphlets), which amounted to advertising and/or canvassing for the purpose of obtaining business and patients. Dr NG'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 NG guilty of the charge.

Having regard to the nature and gravity of the case and the mitigation submitted by Dr NG, the Council ordered that Dr NG be reprimanded. The Council's order above 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*