



香港牙醫管理委員會  
The Dental Council of Hong Kong

**Disciplinary Inquiry under s.18 of DRO**

Defendant: Dr YU, Barry 俞翱飛牙科醫生 (Reg. No. D04128)

Date of hearing: 7 September 2023

Present at the hearing

Council Members: Dr LEE Kin-man, JP (Chairman)  
Dr HSE Mei-yin, Kitty, JP  
Prof LEUNG Wai-keung  
Dr LIU Wai-ming, Haston  
Dr TSANG hin-kei, Century

Legal Adviser: Mr Stanley NG

Legal representative for the Defendant: Mr Chris HOWSE, Messrs Howse Williams, Solicitors

Legal Officer representing the Secretary: Ms Elsie CHU, Senior Government Counsel

**The Charges**

1. The charges against the Defendant, Dr YU, Barry, are as follows:-

“In or about March 2021, you, being a registered dentist, engaged in impermissible practice promotion by -

- (i) placing, or causing the publication of, advertisement(s) of the website [www.pennpacificdental.com](http://www.pennpacificdental.com), which was in association with your practice, in the web based search engine at <https://google.com>; and/or
- (ii) sanctioning, acquiescing in or failing to take adequate steps to prevent the publication of the advertisement(s) of your website [www.pennpacificdental.com](http://www.pennpacificdental.com), which was in association with your practice, in the web based search engine at <https://google.com>.

In relation to the facts alleged, either singularly or cumulatively, you have been guilty of unprofessional conduct.”

### **Burden and Standard of Proof**

2. The Council bears in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. The Council also bears 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.
3. There is no doubt that each of the allegations against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse a registered dentist of unprofessional conduct. Therefore, we need to look at all the evidence and to consider and determine each of the disciplinary charges against him separately and carefully.

### **Unprofessional Conduct**

4. According to section 18(2) of the Dentists Registration Ordinance, Cap. 156 (“DRO”), “unprofessional conduct” means an act or omission of a registered dentist which would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency.

### **Facts of the Case**

5. The name of the Defendant has been included in the General Register (“GR”) since 14 April 2015. His name has never been included in the Specialist Register.
6. Briefly stated, a complaint via email was received by the Dental Council on 10 March 2021 against the Defendant for unauthorized practice promotion by publishing an advertisement of the website [www.pennpacificdental.com](http://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”).

### **Findings of Council**

7. The Defendant admitted the factual particulars of all the charges against him. However, it remains for us to consider and determine whether in respect of each of the charges the Defendant was guilty of unprofessional conduct.
8. It is stipulated in the Code of Professional Discipline (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."*

9. According to the Annual Return of Prime Vision International Limited ("PVIL") as at 12 December 2021, the Defendant 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").
10. 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/](http://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”

11. 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/](http://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。

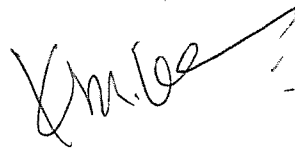
牙科服務  
牙醫學博士  
我們的診所  
Call 2869 0121”

12. There is no dispute that the web address of [www.pennpacificdental.com/](http://www.pennpacificdental.com/) was the web address of PPDCL (at the material time still in the name of PVIL) which the Defendant’s practice was in association with.
13. The word “Ad” in the contents clearly showed that they were advertisements of PPDCL/PVIL. The Defendant 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, the Defendant’s Solicitor informed us that PPDCL/PVIL engaged a digital marketing agency to place the said advertisements in the Google search engine. Clearly this was advertising activity.
14. 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.”* We are 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”.

15. 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 the Defendant’s practice at PPDCL/PVIL.
16. 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.
17. The Secretary offered no evidence in respect of charge (i) despite the Defendant’s admission. We therefore acquit the Defendant of charge (i).
18. The Defendant was the shareholder and director of PPDCL/PVIL. His name was even mentioned in one of these advertisements. The Defendant had a professional relationship with PPDCL/PVIL. As a registered dentist, the Defendant had the personal responsibility to ensure that the Code was complied with at all times. However, the Defendant 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 our view, this was clearly unacceptable.
19. We are satisfied that the Defendant 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>. The Defendant’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.
20. We therefore find the Defendant guilty of charge (ii).

**Sentencing**

21. The Defendant has no previous disciplinary record.
22. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant, but to protect the public and maintain public confidence in the dental profession.
23. We must say that the gravamen of the offence of which the Defendant is convicted is serious. The Code was revised in December 2019, and it was known to the profession for some time, yet the Defendant blatantly engaged in advertising activity which is not allowed.
24. The Defendant does not contest the charges at today's inquiry. We will give the Defendant credit for his admission.
25. The Defendant's Solicitor submitted to us copy of a letter from the Defendant to the Secretary to the Council dated 20 April 2023. We note that the Defendant had taken sole responsibility for the publication of the advertisements at early instance.
26. We have considered the Defendant's CPD record and the commendation letters as submitted.
27. We note that the Defendant had taken steps to immediately rectify by instructing PPDCL/PVIL to terminate the services with Google. We are satisfied that the risk of re-offending is low.
28. Having regard to the gravity of the case and the mitigation submitted by the Defendant, the Council orders that in respect of charge (ii), the Defendant be reprimanded. Our order shall be published in the Gazette.



Dr LEE Kin-man, JP  
Chairman  
The Dental Council of Hong Kong