



Should the Code of Professional Discipline Restrict Registered Dentists for the Release of Medical and Dental Innovation and Freedom of Speech without Being Overseen?

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Short Communication

The code of ethics of professional bodies aims to protect the professionals and the general public [1-8]. When such regulatory bodies review and implement the regulations, they should always hold the fundamental principles.

The Dental Council of Hong Kong (“Dental Council”) wrote a letter to all registered dentists in Hong Kong on December 2, 2019, mentioned that they told the registered dentists there was a review of the “Code of Professional Discipline of Dental Practitioners in Hong Kong” on June 13, 2019 [9]. The Secretary of Dental Council, Maria Chow stated that the council endorsed the revised code recommended by the taskforce, and would take immediate effect [9,10]. However, there was neither a list of the composition of the taskforce nor any opinion or suggestion sought from the registered dentists and the general public. Registered dentists read the revised code of ethics about their profession and are bounded by it without being informed of the rationales behind.

1.12 Information about Medical and Dental Innovations:

Dentists who directly or indirectly release information to the public on new discoveries, inventions, procedures, or improvements should ensure beforehand that:

- a) The relevant medical or dental innovation has been adequately tested;
- b) The value of the innovation is evidence-based;
- c) The evidence-based research has been properly documented and completed with peer approval. It is the duty of the author to seek peer approval from the relevant professional or academic bodies;
- d) Sections 1.2.1 and 1.2.2 are complied with; and
- e) Such release of information does not amount to practice promotion or imply that the dentist may be consulted by individual patients.

It is difficult to understand and to comply with the above sections during the release of the information directly or indirectly. “Adequately tested”, “evidence base”, “evidence-based research”, “peer approval”, “relevant professional and academic bodies” are not defined.

Especially for (e), how can a registered dentist in private, the government, in NGOs or in the university sector etc. stop patients seeking consultation from him? What is the proper procedure to release the information to avoid being accused of (e)? Will there be any practical guide for him to follow? The staff in the dental faculty of the University of Hong Kong takes private cases and earn extra income, there is no difference for all the registered dentists.

For the “Guidelines on Personal Web Pages and Social Media for Dentists” [11].

- 2.5 A dentist should regularly review the privacy settings to ensure that information is not accessed by unintended audiences. However, a dentist should remember that even the strictest privacy settings do not guarantee that information will be kept secure and any information that posted could be viewed by anyone including the dentist’s patients and colleagues.

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2.6 Even if a dentist does not identify himself as a dental professional, he may still put his registration at risk if displaying inappropriate behavior whilst using social media.

The disciplinary action of any registered dentist is held by the Dental Council of Hong Kong [10], which is established under the Chapter 156, "Dentist Registration Ordinance" [12], no one oversees the Dental Council, it means that registered dentists and citizens in Hong Kong have not yet been informed of "Why", "How", "When", "Who" and "What" about the establishment and/or the changes the code of ethics before it takes immediate effect. Registered dentists in Hong Kong only know the endorsed codes on December 2, 2019 during the sudden announcement. If any dentist does not understand it or "is accused to offend" the code, there will be a disciplinary hearing against him, his reputation will be damaged immediately and could not be recovered.

Whether the code of ethics is lawful or not has not been accessed, the Secretary of the Dental Council does not request the declaration of conflict of interest of the witnesses and Council members (i.e. the judges) during the council hearing, self-declaration is the current practice. No one knows what happened until there is a judgment. From the draft to the judgment of the defendant dentist, no one examines whether the taskforce or the council member know what is "adequately tested", "evidence base", "evidence-based research", "peer approval", "relevant professional and academic bodies".

In 1996, David et al. [13] and colleagues clarified the definition of this tributary of evidence-based medicine as "the conscientious, explicit and judicious use of current best evidence in making decisions about the care of individual patients. Evidence-based medicine means integrating individual clinical expertise with the best available external clinical evidence from systematic research [13]. Did the Taskforce members have the knowledge of evidence-based medicine? Did the minutes of the taskforce record this during the discussion? Did they use any other definition? Can we get the minutes during the drafting? There should be no secrecy in such drafting and meetings. Did they declare the conflict of interest before the meeting?

Most people do not know what an appeal is until they face it. An appeal is a fundamental premise of many legal systems that appellate courts review questions of law *de novo*, but appellate courts do not conduct independent fact-finding [14]. Instead, appellate courts will generally defer to the record established by the trial court, unless some error occurred during the fact-finding process. Appeals only function both as a process for error correction as well as a process of clarifying and interpreting law [14]. All these mean that there is no way to prevent or to correct the fundamental flaws of The Code of Ethics.

"The question of whether any particular course of conduct amounts to unprofessional conduct, and the gravity of such unprofessional conduct and of any conviction, are matters which the council will determine after considering the evidence in each individual case. The council, having regard to its quasi-judicial function, is not able to advise individuals. Dental practitioners desiring detailed advice on questions of professional conduct arising in particular circumstances may consult professional organizations or societies such as Hong Kong Dental Association and/or seek professional legal advice" [10]. "This code is not a substitute for the provisions of legislation and case law. If there is any conflict between

this code and the law, the law takes precedence." Compare with the Good Medical Practice of Australian Medical Council [2], The Australian Medical Council respects the law and thus could be considered being overseen and be restricted by the existing law.

The dental council members and unknown people in the taskforce might have the conflict of interest without the declaration; the dental council is a quasi-judiciary body with the power but not being overseen at all. The mechanism of the endorsement of the code of ethics could be abused easily. Filing a judicial review is the only method to stop The Code of Ethics take immediate effect, however, the applicant will waste huge amount of time, effort and money during the procedure.

The registered dentists and the general public could have no method to know the people involved previously since only current Council member list is given [15]. When will we know the list of the people involved? Should there be a chance that the code of ethics could be used as a tool to restrict the freedom of speech or the release of the medical and dental innovation? Should the dental council endorse the code without being overseen? In what way and when can we know whether there is a conflict of interest for the whole issue? Will anyone work to minimize the chance that the code could be used as a tool to harm the innocent dentist or the competitor?

Declaration of Conflict of Interest

The author is a registered dentist in private practice in Hong Kong, Patent and Trademark owner, Director of company limited, Editor and Reviewer of Medical and Dental Journals: and the Founding President of an Institutional Review Board.

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