

**Nursing Council of Hong Kong**  
**Disciplinary Inquiry**  
**Nurse Registration Ordinance (Cap. 164)**  
**No.: NC 490/7/B**

Date of Hearing: 3<sup>rd</sup> August 2022, 12<sup>th</sup> October 2023, 9<sup>th</sup> November 2023,  
14<sup>th</sup> December 2023, 1<sup>st</sup> February 2024 and 26<sup>th</sup> March 2024

Defendants: Ms. A;  
Ms. B;  
Ms. C; and  
Ms. D

**DECISION**

**BACKGROUND OF THE CASE**

1. On 21<sup>st</sup> November 2021, the Department of Health (“DH”) issued a memorandum to the Nursing Council (“the Council”) informing the Council, inter alia, that during an investigation into Salubrity Living Wellness Centre (羨翔健康中心) (“the Centre”), it was revealed that a group of registered nurses, namely, (1) Ms. D; (2) Ms. A; (3) Ms. B; and (4) Ms. C (collectively, “the Four Defendants”) might have contravened the “Guides to Good Nursing Practice” and the “Code of Ethics and Professional Conduct for Nurses in Hong Kong” issued by the Council.
2. The Council issued Notices of Inquiry dated 27<sup>th</sup> January 2022, to (1) Ms. D; (2) Ms. B; and (3) Ms. C, to inform them individually, inter alia, that an inquiry shall be held against them:

*“[t]hat..., being a registered nurse, engaged in improper professional practice in [their] association with Salubrity Living Wellness Centre (“the Centre”) in that during the period from 2017-2021:*

- (i) [They] instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “BeWell Laser Device” in the website of the Centre for medical treatment;*
- (ii) [They] instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “BeWell Laser Device” in the website of the Centre, which failed to give balanced views when misleading or exaggerating the efficacy of its medical benefits;*

- (iii) *[They] instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “Metatron” in the website of the Centre for medical treatment;*
- (iv) *[They] instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “Metatron” in the website of the Centre, which failed to give balanced views when misleading or exaggerating the efficacy of its medical benefits;*
- (v) *[They] instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “PASESA” in the website of the Centre for medical treatment; and/or*
- (vi) *[They] instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “PASESA” in the website of the Centre, which failed to give balanced views when misleading or exaggerating the efficacy of its medical benefits,*

*and in that in relation to the facts alleged, either singularly or cumulatively, [they] have been guilty of unprofessional conduct”*

3. The Council issued a Notice of Inquiry dated 27<sup>th</sup> January 2022 to Ms. A to inform her that an inquiry shall be held against her:

*“[t]hat..., being a registered nurse, engaged in improper professional practice in [their] association with Salubrity Living Wellness Centre (“the Centre”) in that:*

*(1)-(128)...*

- (129) During the period from 2017 to 2021, you impermissibly instigated, sanctioned, or acquiesced in promotion of “Metatron” in the website of the Centre for medical treatment;*
- (130) During the period from 2017 to 2021, you impermissibly instigated, sanctioned, or acquiesced in the said promotion of “Metatron” in the website of the Centre, which failed to give balanced views when misleading or exaggerating the efficacy of its medical benefits;*
- (131) During the period from 2017 to 2021, you impermissibly instigated, sanctioned, or acquiesced in the promotion of “BeWell Laser Device” in the website of the Centre for medical treatment;*
- (132) During the period from 2017 to 2021, you impermissibly instigated, sanctioned, or acquiesced in the promotion of “BeWell Laser Device” in the website of the Centre, which failed to give balanced views when misleading or exaggerating the efficacy of its medical benefits;*

(133) *During the period from 2017 to 2021, you instigated, sanctioned, or acquiesced in, or failed to prevent the impermissible promotion of “BeWell Laser Device” for medical treatment(s) in YouTube, i.e. youtube.com/watch?v=z\_WhKkGfv\_s.”;*

(134) *During the period in 2021, you impermissibly instigated, sanctioned, or acquiesced in the promotion of the use of “PASESA” in the website of the Centre for medical treatment; and/or*

(135) *During the period in 2021, you impermissibly instigated, sanctioned, or acquiesced in the promotion of the use of “PASESA” in the website of the Centre, which failed to give balanced views when misleading or exaggerating the efficacy of its medical benefits,*

*and in that in relation to the facts alleged, either singularly or cumulatively, you have been guilty of unprofessional misconduct.”*

4. Legal Officer for the Secretary of the Council (“[REDACTED]”) made an application to consolidate charges (1) to (128) against Ms. A to a single charge and Ms. A did not oppose to the consolidation and this Council allowed the said application and the consolidated charge reads:

*“On divers dates between 27<sup>th</sup> September 2016 and 16<sup>th</sup> November 2017, Ms. A, in her professional practice in association with Salubrity Living Wellness Centre (“the Centre”), instigated, sanctioned, or acquiesced in making voucher claims under the Health Care Voucher (“HCV”) System for the purported nursing modalit(ies), health supplement(s), health device(s) and/or products [羨翔健康檢測, 一滴血檢測, 卵磷脂 Organic Lecithin, Propolis glycolic solution, 富蘿菁華草宗, Blood Detoxification 清脂通, 能量水, Manna Linden Honey, Bill Natural Lecithin, 活生機 and/or 空氣消毒淨化液], which one would reasonably have understood them to be impermissible modalit(ies), health supplement(s), health device(s) and/or product(s) under the rules of HCV Scheme for making claims.”*

### **Relevant Facts**

5. By her Statement of Admitted Facts, it is admitted by Ms. A, inter alia, that:
- (i) Her name has been included in the Register of Nurses (General) since 19<sup>th</sup> November 1969;
  - (ii) The particulars of the consolidated charge as stated in paragraph 3 above; and
  - (iii) The particulars of the charges as stated in paragraph 4 above.
6. While admitting the particulars of all charges against her for unprofessional conduct regarding business promotion of the devices called “BeWell Laser Device”, “Metatron”

and “PASESA” (collectively, “the Three Devices”), Ms. A left the Council to decide if she is guilty of unprofessional conduct.

7. By their respective Statements of Admitted Facts, Ms. C and Ms. B admitted, inter alia, that:
  - (i) Ms. C’s name has been included in the Register of Nurses (General) since 3<sup>rd</sup> April 1980;
  - (ii) Ms. B’s name has been included in the Register of Nurses (General) since 18<sup>th</sup> May 1973;
  - (iii) The particulars of the charges against them as stated in paragraph 2 above.
8. While admitting the particulars of all charges against them for unprofessional conduct regarding business promotion of the Three Devices, Ms. C and Ms. B left the matter to the Council to decide if they are guilty of unprofessional conduct.
9. By her Statement of Admitted Facts, it is admitted by Ms. D, inter alia, that:
  - (i) Her name has been included in the Register of Nurses (General) since 25<sup>th</sup> March 1976;
  - (ii) Her name was included in the website of the Centre whereby she held out to be a senior Health Consultant of the Centre, with her professional nursing qualifications and description.
  - (iii) In response to the Preliminary Investigation Committee’s letter dated 3<sup>rd</sup> November 2021, she provided a written response dated 22<sup>nd</sup> November 2021 stating that:
    - (a) Upon Ms. A’s request, she agreed to have her photographs taken in February 2016, with the knowledge that the photographs were for the purpose of preparing her name cards and potentially asking her to work in the Centre as a Health Consultant;
    - (b) She did not work in the Centre because she did not have enough time to prepare herself to work as a Health Consultant, in particular, she did not have time to study thoroughly the operation and effects of “BeWell Laser Device” and “Metatron”;
    - (c) She acknowledged receiving information about promotional activities from the Centre and she had visited the Centre’s website a few times in order to view those promotional activities; and
    - (d) She denies having ever worked at the Centre and she does not know any information about “PASESA” in 2021.

- (iv) Ms. A, on behalf of the Centre, issued a letter to her stating that:
- (a) Ms. D has never participated in the operation of the Centre;
  - (b) Ms. D has never provided any services to the clients of the Centre;
  - (c) Ms. D has not practiced at the Centre at any time;
  - (d) Ms. D was not involved in the publication of the website of the Centre; and
  - (e) Ms. D did not provide consent to the Centre for her photo or information to be published on the website.
- (v) In response to the Council's Notice of Inquiry dated 27<sup>th</sup> January 2022, she submitted a statement dated 19<sup>th</sup> July 2022 stating that:
- (a) She adopts her answer stated in her written response dated 22<sup>nd</sup> November 2021.
  - (b) She was invited by Ms. A to join the Centre and she expressed some interest in/about October 2015.
  - (c) Shortly after October 2015, she attended a brief training session (no more than half a day) organized by the Centre regarding "Metatron" and she was only given some ideas of the device.
  - (d) In February 2016, she was invited by Ms. A to the Centre to have her photograph taken by professional photographer(s). It was her understanding that her photographs would be used for her future business card and team photographs after her appointment as Health Consultant. She agreed to the photographing session because it was her understanding that her personal photographs, as well as her personal information which she provided to the Centre would not be used in any manner by the Centre before her appointment.
  - (e) She denies that she instigated, sanctioned or acquiesced to the promotion of any of the relevant device.
  - (f) She was of the view that she has no duty to prevent the promotion of the relevant devices through the publication of her photographs and information.
10. It is not disputed that all the Defendants were registered nurses at all material times.
11. It is not disputed that: (1) Ms. A; (2) Ms. B; and (3) Ms. C were working in the Centre at the material times.

12. While admitting the particulars stated in their respective charges, (1) Ms. A; (2) Ms. C; and (3) Ms. B do not agree that they are in contravention of the relevant parts of Code of Ethics and Professional Conduct for Nurses in Hong Kong (January 2015 version) (“the Code”) and they leave the matter to the Council to decide.
13. While admitting the particulars of her charges, Ms. D denies that she participated in the promotion of the Three Devices.
14. The admissibility of the documents in the Hearing Bundles of each of the four Defendants is not disputed.

### **The Law**

15. At all material times, the four Defendants were registered nurses governed by the Nurses Registration Ordinance (Cap. 164) (“NRO”).
16. Under section 17(1) of the NRO, if, after due inquiry, the Council is satisfied that any registered/enrolled nurse has been, in Hong Kong, guilty of unprofessional conduct, the Council may order, inter alia, that the registered/enrolled nurse be reprimanded or that his/her name be removed from the register or roll of nurse (or any part thereof), either permanently or for a special period of time. The Council may also impose costs orders.
17. Under section 17(3) of the NRO, “unprofessional conduct” means an act or omission by a registered/enrolled nurse which could be reasonably regarded as disgraceful or dishonorable by registered/enrolled nurses of good repute and competency.
18. The Code provides guidance on fundamental ethical commitments and obligations of the nursing profession and serves as the basis for decisions regarding the standards of ethical nursing practice and professional conduct.

### **The Relevant Legal Principle**

19. It is the Secretary’s duty to prove its case and the standard of proof shall be on the balance of probability.
20. Compelling evidence is needed in proving serious allegation.
21. In considering the charges against the Four Defendants, the Council bears in mind that, at the time of present complaint, the Four Defendants have been working as registered nurses for decades free from any complaint relating to their professional conduct. In this regard, credits should be attached to the weight of their case as they have less propensity in committing the breaches in question.

### **The Secretary's Case**

22. There are two sets of charges, namely, the practice promotion charges against each of the Four Defendants and the HCV charge against Ms. A.
23. It is the Secretary's case that the Four Defendants breached or contravened the following parts of the Code:
  - (i) Code 4.9: Nurses play their rightful roles in the health care establishments (each of the Four Defendants);
  - (ii) Code 5.1: Nurses maintain standards of personal conduct which reflect well on the profession and enhance its images and public confidence at all times (each of the Four Defendants);
  - (iii) Code 7.3: Nurses ensure that their professional status is not misused in the promotion of commercial products or services (each of the Four Defendants); and
  - (iv) Code 7.4: Nurses ensure that their professional judgment is not influenced by any commercial considerations (Ms. A only).
24. ██████████ did not call any witness to testify and solely rely on the documents in the Hearing Bundles of each of the Four Defendants to support the Secretary's case. It is noted that most of the documents in the said Hearing Bundles were common documents as they relate to the same incident and charges.

### **The Secretary Case Regarding the Practice Promotion-Medical Treatment**

25. According to the information provided by DH after its onsite and online investigation, it revealed that:
  - (i) The promotion materials and/or operation manuals of each of the Three Devices described that they could provide some form of medical treatment;
  - (ii) The Four Defendants have actual and/or constructive knowledge of their respective position and title in the Centre as displayed on the Centre's website;
  - (iii) The promotions of the Three Devices were misleading or exaggerating the efficacy of its medical benefits, none of the Four Defendants took any action to give a balanced view thereof; and
  - (iv) Ms. A, Ms. C and Ms. B have instigated, if not sanctioned; and Ms. D has acquiesced, if not failed to prevent the promotions of the Three Devices.

## **BeWell Laser Device**

26. ██████████ referred to the “Operation manual” of “BeWell Laser Device” in the Centre’s website which stated the said device provided the following medical treatment feature:

*“Regulate hypertension; ease side effects of hypolipidemic drugs; increase activity of insulin receptors; relieve diabetic conditions; restore plasma beta-endorphin level in blood; completely prevent premenstrual syndrome; significantly prevent and improve coronary heart disease, stroke, hypertension, hyperlipidemia, diabetes and other common city diseases. Further, prevent and relieve sub-health symptoms including headache, fainting, tinnitus, insomnia, nasal allergy, dry throat, skin allergy, hip pain, anxiety, depression, low mood, etc.”*

27. ██████████ also relied on a YouTube video which could be viewed by the general public. In the said video, Ms. A made statements on the effectiveness of “BeWell Laser Device” (“the Device”), she said:

- (i) She had forty years’ experience in health care sector prior to her retirement;
- (ii) The Device works like a blood spa;
- (iii) The Device makes her take fewer painkillers now;
- (iv) The Device allows out-patient to manage and maintain their health;
- (v) The Device was developed to focus on preventing and improving heart, brain and blood vessel problems; and
- (vi) The Device allows out-patients to self-manage and maintain good health.

## **Metatron**

28. ██████████ referred to the memorandum from the DH to the Council dated 21<sup>st</sup> November 2017 which stated that Ms. A’s (assisted by Ms. B) reply to the police enquiry that:

*“...their clients would first receive a whole-body scan to scan various body parts and “經絡” to identify health problems. The Metatron device would then generate diagnosis e.g. glaucoma, laryngitis etc. Once health problems were diagnosed, focused scanning could be performed by the device to further assess the need of treatment.”*



## **PASESA**

29. ██████████ referred to the description of “PASESA” found in the Centre’s website which stated the device having the following medical treatment feature:

*“Easily understand degree of arterio sclerosis; free cardiovascular examination; instantly obtain new health index; and guarding cardio vessels.*

*Easy and simple; with patent in Japan; quick examination in 90 seconds; and with professional medical standard.”*

## **The Defence Case Regarding Practice Promotion-Medical Treatment**

30. Ms. C and Ms. B chose not to testify. Ms. A chose to make a “submission” which, in her own words, aimed at clarifying the parts being misunderstood by ██████████ in his opening.
31. Ms. D gave evidence and said that:
- (i) She merely had a brief discussion with Ms. A about joining the Centre, and she gave her CV to Ms. A;
  - (ii) She never worked in the Centre;
  - (iii) She attended a half day training session of the “Metatron”;
  - (iv) Upon Ms. A’s request, she wore the Centre’s uniform and a photographer took her photograph(s);
  - (v) She has viewed the information about “health promotion” on the Centre’s website;
  - (vi) She did not know that her photograph and her working experience was posted on the website until informed by the Council;
  - (vii) Neither Ms. A nor any other person informed her that her photograph and working experience would be posted on the Centre’s website;
  - (viii) Once informed by the Council, she asked Ms. A to remove her photo and working experience from the Centre’s website;
  - (ix) Ms. A issued a letter stating matters in paragraph 9(iv) above;
  - (x) She confirmed the contents of her letter to the Council dated 22<sup>nd</sup> November 2021 which is substantially consistent with her testimony in this hearing.

32. In response to the question put by [REDACTED], Ms. D said that:
- (i) She attended the “Metatron” training in the end of 2015;
  - (ii) Her photographs were taken in February 2016;
  - (iii) The uniform she wore in the photos was provided by the Centre;
  - (iv) There was no discussion on privacy and the use of personal information;
  - (v) She would have received hyperlinks on “health promotion activity” of the Centre and she would click on the hyperlinks to see the information;
  - (vi) She had no interest in the identities of the member of the Centre’s team as she did not join the Centre;
  - (vii) She agreed that, in addition to providing medical knowledge, the Centre would use medical equipment including “BeWell Laser device” and “Metatron”;
  - (viii) She denied that she had requested the removal of her information on the Centre’s website after she had come to know that the Council “did not like” it;
  - (ix) She did not attend the “health promotion activity”;
  - (x) She did not understand the “Metatron” and “Bewell Laser Device” as she did not take up the job;
  - (xi) She knew the Centre is operating at the material times; and
  - (xii) Neither she nor Ms. A followed up on the “employment” matter.
33. Ms. A chose not to testify but made a “submission” to the Council. The gist of her submission is that she did not breach the Code and she is of the opinion that what she did fall outside the ambit of the Code.
34. In answering the queries put by the Council, Ms. A said, that:
- (i) the operation manual of “Bewell Laser Device” was not on the Centre’s website;
  - (ii) the video was just for showing the client BeWell Global Limited which was selling “BeWell Laser Device”;
  - (iii) the video was not posted by her on YouTube and she had no knowledge of the YouTube post;
  - (iv) she did not read the operation manuals of the Three Devices;

- (v) she read some studies and/or researches of the Three Devices but she was unable to provide details to the Council;
  - (vi) the Three Devices are used by some medical professions and Dentist but she cannot recall the names of them;
  - (vii) by using the measurement feature of “Metatron”, Metatron could tailor-make a product called “能量水” to individual client for addressing their individual health issue;
  - (viii) the Centre never used the “PASESA”;
  - (ix) she is still using “Metatron” for (health) assessment.
35. In answer to the question put by the Council, Ms. C stated that:
- (i) The information about the Three Devices which she received is the same of what Ms. A expressed;
  - (ii) She confirms that she used the translated user manual of “Metatron”; and
  - (iii) “Metatron” could slightly tune the body and make health better.
36. In answer to the question put by the Council, Ms. B stated that she did translate the user manual of “Metatron” on Ms. A’s request.

**Analysis of the Case - Practice Promotion-Medical Treatment**

37. In considering the present case, the following questions should be asked:
- (i) Whether the Three Devices were claimed to be medical device and/or of medical use?
  - (ii) Are the Three Devices clinically and/or medically proven?
  - (iii) Whether the Three Devices were merely for measuring the health data?
  - (iv) Whether the Four Defendants knew that the Three Devices were claimed to be medical device and/or of medical use?
  - (v) Whether Ms. A was under any duty to prevent her video regarding “BeWell Laser Device” to be posted on YouTube?
  - (vi) Whether Ms. D was under any duty to prevent her photo and her working information to be posted on the Centre’s website?

**Whether the Three Devices were claimed to be medical device and/or of medical use?**

38. It is not disputed that none of the Three Devices has been registered under the DH's voluntary scheme for medical device. In other words, all of them have never been registered as a medical device in DH's record.
39. However, the promotional materials and/or operation manuals of the Three Devices claimed that they were able to be used for some form of medical treatment and the general public could read the said promotional materials and/or operation manuals online. It would convey a message to the general public that they were medical devices that could be used for some form of medical treatment.

**Are the Three Devices clinically and/or medically proven to have the functions as claimed?**

40. Ms. A, Ms. C and Ms. B are unable to provide the details of their respective study and/or research on the Three Devices. Their respective explanations and/or submissions to the Council did not provide any cogent and/or solid evidence that the Three Devices were clinically and/or medically proven to be able to perform their respective functions as claimed.

**Whether the Three Devices were merely for measuring the health data?**

41. The Three Devices, as submitted and/or explained by Ms. A, Ms. C and Ms. B, were not only measuring the health metrics but also analyzing the same. The Three Devices would then provide some sort of diagnosis in the form of medical suggestions.

**Whether the Four Defendants have knowledge that the Three Devices were claimed to be medical device and/or of medical use?**

42. It is not disputed that all the promotional materials and/or operation manuals could be found on the Centre's website and/or the official websites of the Three Devices respectively. On that premises, even if they have no actual knowledge, they have constructive knowledge of that.
43. Further or in the alternative, it would be common sense and duty for a registered nurse to do some form of study and/or research on the function of the devices which were to be promoted to clients. The Council is surprised that Ms. A "submitted" that she did not read the operation manuals of the Three Devices and, Ms. C (even if she did use the operation manual of "BeWell Laser Device") and Ms. B (even if she translated the operation manual of "Metatron") almost completely relied on Ms. A's knowledge of the Three Devices.

**Whether Ms. A was under any duty to prevent her video regarding “BeWell Laser Device” to be posted on YouTube?**

44. It is not disputed that the video was not posted on YouTube by Ms. A herself. She took that video while she was working for BeWell Global Limited. Ms. A fully understood that her video would be viewed by the clients/customers of BeWell Global Limited. She was under a duty to ensure that her video would not be used after she left her office at BeWell Global Limited as there was a chance/risk that, no matters whether it was accidentally or intentionally, her video would continue to be posted on the internet. Unfortunately, it was posted on YouTube after she had left her office at BeWell Global Limited and was (and is still) able to be viewed by the general public.

**Whether Ms. D was under any duty to prevent her photo and her working experience to be posted on the Centre’s website?**

45. It is not disputed that Ms. D never worked in the Centre. However, she was aware that the Centre was operating. There was a chance/risk that, no matters whether it was accidentally or intentionally, her photo and/or working experience would be posted on the Centre’s website.
46. As her photo and working experience relate to her profession as a registered nurse, she is always under a duty to prevent such materials to be misused by the other. However, after considering the evidence available and Ms. D’s explanation, the Council accepts that:
- (i) There is no further discussion between Ms. A and Ms. D for joining the Centre after Ms. D had submitted her CV and her photo in the Centre was taken;
  - (ii) Ms. D only joined a half day training session for using “Metatron”; and
  - (iii) Ms. D never joins nor works in the Centre.
47. Though Ms. D’s act is not only imprudent but also suspicious as it cannot be disregarded that Ms. D may not have viewed the relevant part on the Centre’s website before she was informed by the Council. In other words, she might not know that her photo and working experience were posted on the Centre’s website.

**Determination on Practice Promotion**

48. For the reasons stated in paragraph 37-43 above, the Council finds all 6 charges against Ms. A, Ms. C and Ms. B proved.

49. For the reasons stated in paragraph 44 above, the Council finds the charge relating to the YouTube video against Ms. A proved.
50. For the reasons stated in paragraph 45-47 above, the Council finds all 6 charges against Ms. D not proved.
51. The 6 charges against Ms. C and Ms. B, either singularly or cumulatively, constitute unprofessional conduct that contravened Code 4.9, 5.1 and 7.3.
52. Similarly, the 6 charges against Ms. A, either singularly or cumulatively, constitute unprofessional conduct that contravened Code 4.9, 5.1, 7.3 and in addition 7.4.
53. The 6 charges against Ms. D, either singularly or cumulatively, do not constitute unprofessional conduct.

### **The Secretary Case Regarding HCV Against Ms. A**

54. As stated in paragraphs 3-4 above, the 128 charges relating to HCV is consolidated into a single charge.
55. It is the Secretary's stance that:
  - (i) “羨翔健康檢測” and “一滴血檢測” are inpatient services; and
  - (ii) “卵磷脂 Organic Lecithin, Propolis glycolic solution, 富蘿菁華草茶, Blood Detoxification 清脂通, 能量水, Manna Linden Honey, Bill Natural Lecithin, 活生機 and/or 空氣消毒淨化液” are products and medical equipment.
56. Under the HCV scheme, the HCV cannot be provided for inpatient services, products or medical equipment.

### **Ms. A Case Regarding HCV**

57. By her own submission, while not agreeing that “羨翔健康檢測” and “一滴血檢測” are inpatient services, Ms. A submits, inter alia, that “(she) should be more careful applying HCV and she should be more familiar with the terms of HCV. She has accepted the consequence of breaching the terms and conditions of HCV scheme. And her account under the HCV scheme has been terminated in 2017.”

### **Analysis of the Case-HCV**

58. There is no definite classification for outpatient and inpatient services. One of the differences is based on the length of time a patient stays in the medical establishment. “Inpatient” usually defines overnight or longer stay. In the present case, it is not a clear how long a client spent in the Centre.

59. As to the nature of services of “羨翔健康檢測” and “一滴血檢測” are medical examination which might not be categorized as “inpatient” service as inpatient service usually refers to more complicated examination or surgery.

### **Determination on the HCV Charge Against Ms. A**

60. For the reason stated in paragraphs 55-56 above, except for the allegation relating to “羨翔健康檢測” and “一滴血檢測”, the Council finds the charge against Ms. A proved to the extent of using HCV to purchase “卵磷脂 Organic Lecithin, Propolis glycolic solution, 富蘿菁華草宗, Blood Detoxification 清脂通, 能量水, Manna Linden Honey, Bill Natural Lecithin, 活生機 and/or 空氣消毒淨化液”.
61. The HCV charge against Ms. A constitutes unprofessional conduct.

### **Mitigation and Considerations**

62. Ms. A, Ms. C and Ms. B submitted documents and verbally addressed the Council in mitigation.
63. The Council accepts that Ms. A, Ms. C and Ms. B have been practicing nursing for many years with exemplary accomplishments in many areas of the nursing profession and this is the first time in their long professional lives that they are before this Council.
64. Ms. A set up the Centre in 2014 to promote better awareness of health in Hong Kong and in the process provided “advices” through the use of devices subject of these complaints.
65. Ms. A, Ms. C and Ms. B maintain that the Centre promotes health care ( 保健 ). Ms. A said she had gone to Russia to attend medical conferences and read the research report of Metatron. It remains the case that using a device she may have confidence in is quite different from promoting a device to the general public coated with the vast and long experience in the nursing profession. The same applies to Ms. C and Ms. B.
66. These devices are not simply data measuring, the BeWell Laser Device claims to regulate hypertension, ease side effects of hypolipidemic drugs, increase activity of insulin receptors, etc. The Metatron claims to do a whole- body scan to scan various body parts to identify health problems and generate diagnoses and assess the need of treatment. The PASESA is said to easily understand degree of arterio sclerosis; free cardiovascular examination, etc. There has not been any evidence in support of these claims except Ms. A having attended conferences, read some research materials and the materials in the promotion brochures.
67. Ms. B submitted the Metatron manual which promotes the device as a Nonlinear Diagnostic System.

68. The services provided in the Centre has the backing of Ms. A, Ms. C and Ms. B who are more than experienced and reputable nurses.
69. It cannot be denied that the Centre is run as a commercial being. Nurses running a commercial centre should and is expected to maintain a higher standard than a non-nurse as the general public would rely on the professionalism of a nurse, not to mention very experienced nurses.
70. The Council is conscious that the charges concern only the improper promotion on the website but the Code provides in Code 7.3 “Nurses ensure that their professional status is not misused in the promotion of commercial products or services”, and Code 7.4 “Nurses ensure that their professional judgement is not influenced by any commercial considerations” should be observed in promotion of any kind and form.
71. Ms. A submitted that the Centre is no longer under the HCV scheme and said she would be more careful should the Centre be approved in the future.
72. The Council acknowledges that Ms. A, Ms. C and Ms. B have admitted the facts of the allegations and saved time of the hearing.
73. Having considered the fact that the Centre was and is still running as a commercial business, health safety of the public is potentially put at risk as the devices claim to diagnose medically are still in use. The reputation of the profession is dented as a result of these inquiries, removal of names from the Register of Nurses is inevitable.
74. Ms. A started the Centre in 2014 and is the owner of the Centre, she runs and manages the day to day running of the business. Her name is to be removed from the Register of Nurses for 6 months in respect of each of the promotion charges and 6 months in respect of the HCV charge. The Council considers a total removal period of 6 months sufficiently reflects the seriousness of the charges against her.
75. Ms. C and Ms. B played a lesser part as they were employed by Ms. A. Their names are to be removed from the Register of Nurses for 3 months in respect of each of the charges and the Council considers a total removal period of 3 months sufficiently reflects the seriousness of the charges against them.

### **Orders**

76. The name of Ms. A is to be removed from the Register of Nurses for six months.
77. The names of Ms. B and Ms. C are to be removed from the Register of Nurses for three months.

Professor Agnes TIWARI  
Chairman, Nursing Council of Hong Kong