

ADMINISTRATIVE APPEALS BOARD
ADMINISTRATIVE APPEAL NO. 8/2015

BETWEEN

A

Appellant

and

PRIVACY COMMISSIONER
FOR PERSONAL DATA

Respondent

Coram: Administrative Appeals Board

- Mr LIU Man Kin (Deputy Chairman)
- Ms CHAN Pui Ying (Member)
- Miss YEN Kai Shun Catherine (Member)

Date of Hearing: 9 September 2015

Date of Handing down Written Decision with Reasons: 7 October 2015

DECISION

A. Introduction

1. This case concerns a “data correction request” under the Personal Data (Privacy) Ordinance (Cap.486) (“PDPO”).

2. By a notice of appeal dated 6 March 2015, the Appellant lodged with the Administrative Appeals Board (“the Board”) this appeal (“the Appeal”) against the decision made by the Respondent on 3 March 2015 of not pursuing her complaint against the Party Bound further (“the Decision”).

3. By a letter to this Board dated 7 May 2015, the Appellant made an application for an anonymity order in this appeal. Upon this application, we made the provisional anonymity order on 13 August 2015:

(a) That the Appellant shall be referred as “the Appellant” or “A”, and the Party Bound shall be referred as “D” in the hearing on 9 September 2015 and any subsequent hearing.

(b) The naming or identification of the Appellant or the Party Bound in the context of any report is prohibited.

4. Having heard submissions from the parties in the hearing on 9 September 2015, we now confirm the provisional anonymity order and make it absolute. We further direct that the name of the Appellant shall appear as “A” in the titular page of the Board’s Decision released to the public. We will explain the reasons for this order (“the Anonymity Order”) in the later part of this Decision.

B. The Facts

5. D is a medical doctor. During the period from 2 December 2008 to 12 December 2011, the Appellant was a patient seeing D from time to time.

6. On 2 June 2012, D sent a letter (“the termination letter”) to the Appellant through email, in which D told the Appellant the termination of the doctor-patient relationship between them and the reasons for the termination.

7. On 10 March 2014, the Appellant sent a data access request to D, in which the Appellant requested for, *inter alia*, a copy of the termination letter.

8. As a result of the said data access request, on 10 April 2014, D’s solicitors supplied a copy of the termination letter to the Appellant.

9. On 13 April 2014, the Appellant sent a data correction request (“the DCR”) to D, requiring D to make various corrections to the termination letter.

10. The termination letter and the requested corrections as set out in the DCR are annexed hereto as Annex A and Annex B respectively. Names of individuals and organizations mentioned in the termination letter and in the DCR are either omitted or replaced by pseudo names to avoid unnecessary revelation of their identities. Further remarks are made in the termination letter to show the parts requested to be corrected by the DCR.

11. The Appellant applies to adduce 5 audio recordings as evidence in support of her appeal. Both the Respondent and the Party Bound object to this application on the ground that the audio recordings are not relevant to this appeal. We have heard the 5 audio recordings on *de bene esse* basis in the hearing. The relevance of these audio recordings would be discussed later in this Decision.

C. Analysis

The Principles

12. As defined in PDPO s.2(1), “personal data” means “any data-
- (a) relating directly or indirectly to a living individual;
 - (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and
 - (c) in a form in which access to or processing of the data is practicable”.
13. Further, as defined in s.2(1), “data correction request” means a request under s.22(1).
14. PDPO s.22(1) provides:
- “Subject to subsections (1A) and (2), where-
- (a) a copy of personal data has been supplied by a data user in compliance with a data access request; and
 - (b) the individual, or a relevant person on behalf of the individual, who is the data subject considers that the data is inaccurate, then that individual or relevant person, as the case may be, may make a request that the data user make the necessary correction to the data.”
15. Under PDPO s.23(1), a data user who is satisfied that personal data to which a data correction request relates is inaccurate shall, not later than 40 days after receiving the request make the necessary correction to the data and supply the requestor with a copy of the data so corrected.

16. A data user may refuse to comply with s.23(1) in relation to a data correction request if he is not satisfied that the personal data to which the request relates is inaccurate. See PDPO s.24(3).

17. In respect of PDPO ss.22 to 24, Administrative Appeal No. 22 of 2000 is a case providing valuable guidance. In that case, the appellant submitted a data correction request to his former employer regarding allegations made against him in a letter of termination. The Board in that case held that the former employer was not in breach of PDPO s.23(1) in refusing to amend the letter as requested. The appellant was requesting the former employer to amend the reasons for the termination. The Board held that the former employer and the appellant naturally would have different views on those reasons. The former employer decided to terminate the employment because he was not satisfied with the appellant's performance. It would not be right if the appellant could compel the former employer to change those reasons by a data correction request. The legislative intent of PDPO ss.22 to 24 would not cover these circumstances. The Board also held that whether a data user might refuse to comply with a data correction request by relying on s.24(3) would depend upon whether there were reasonable grounds for the data user to be not satisfied that the personal data to which the request related was inaccurate.

18. We regard Administrative Appeal No. 22 of 2000 as a correct decision and would apply the principles established in that case in this appeal.

19. In Administrative Appeal No. 74 of 2011, the Board considered data correction requests made by an interviewee concerning the accuracies of the meeting reports composed by his interviewer. In paragraph 32 of their decision,

the Board said “*Insofar as the 2 Reports were concerned with what actually took place in the 2 meetings and the words exchanged by each side, these were matter of facts of which there are only two persons in this world who will know where the truth lies. If [the interviewer] says that his reports were accurate reports of what went on in those meetings, it is not for the Commissioner or this Board to make him say otherwise. We cannot direct [the interviewer] to be satisfied that his 2 Reports are inaccurate.*” We agree with this approach and would apply the same in determining this appeal.

Correction A

20. The Appellant says that the sentence “[*t*]here were more than 65 consultations” is inaccurate, for there have only been 61 consultations.

21. According to D, apart from the 61 consultations agreed by the Appellant, there were hospital consultations, telephone consultations on 5 December 2008, 10 December 2008 and 19 March 2010, a consultation on 2 September 2011, as well as various email consultations, and hence the total number of consultations was more than 65.

22. The Respondent considers that there are reasonable grounds for D to be not satisfied that the sentence “[*t*]here were more than 65 consultations” is inaccurate.

23. We agree with the Respondent.

Correction B

24. The Appellant requests to add “*foot*” in the sentence “*You suffered from multiple orthopaedic problems involving your knees, neck, back and shoulders*”.

25. The Respondent takes the view that the sentence is D's diagnosis of the Appellant's condition, and the Respondent is not in a position to determine that the diagnosis is inaccurate.

26. We agree with the Respondent.

Correction C

27. The Appellant requests deletion of the whole paragraph in which D mentioned the Appellant's dissatisfaction and numerous complaints against him and his clinic staff. The Appellant says that those are not complaints but matters ought to be brought to D's attention.

28. The Respondent is of the view that the Appellant has actually made numerous complaints to D, and there is no inaccuracy in that paragraph of the termination letter.

29. We are of the same view.

Correction D

30. The Appellant requests to delete the paragraph in which D mentioned that he had explained to the Appellant many times that doctor-patient relationship was a relationship built on trust.

31. The Respondent considers that this paragraph does not represent the Appellant's personal data.

32. We agree with the Respondent. We also do not see any evidence showing any factual inaccuracy in this paragraph.

Correction E

33. The Appellant says that D should change the words “*medical treatment*” to “*second opinion*”, for D has only suggested the Appellant to seek second opinion and not medical treatment from other doctors.

34. The Respondent considers that the words “medical treatment” in context are not the Appellant’s personal data.

35. We agree with this view.

Correction F

36. The Appellant requests for deletion of the sentence “*as I might not be able to solve all your problems*”, for the Appellant has never heard D saying this.

37. The Respondent considers that D did not claim that he had said this to the Appellant at any earlier time. D only expressed this as his opinion in the termination letter. The opinion cannot be subject to a data correction request.

38. We are of the same view.

Corrections G and H

39. The Appellant requests for deletion of all the references concerning the Appellant not seeing D for medical treatments since December 2011. The Appellant says that after the last consultation in December 2011, she had made

a number of phone calls and emails to D's clinic "*to find the root cause of the appointment problem*".

40. The Respondent takes the view that the fact remains that the Appellant had no further medical consultation with D after the last one made on 12 December 2011. Hence, the statements concerned are factually correct.

41. We agree with the Respondent.

Correction I

42. The Appellant requests D to rewrite the sentence "*[y]ou have recently threatened to lodge a complaint with Medical Council against me.*" in the way suggested by the Appellant in the DCR.

43. The Respondent considers that the statement is probably based upon the Appellant's email to D dated 1 June 2012, in which the Appellant said: "*I do NOT want to have the final submission to the [Medical] Council. However, I had no choice but to start this process since [D] refused to communicate. I hope ... we could work out the differences ... and there will be no need to submit this to the Medical Council.*" The Appellant and D may interpret the said email in different ways. In any event, the statement concerned is not the Appellant's personal data.

44. We agree with the Respondent's analysis. We add that based upon the Appellant's email dated 1 June 2012, it is reasonable to regard the statement concerned as being accurate.

Correction J

45. The Appellant requests for deletion of the sentence “[P]lease understand that our clinic is a commercial private clinic and our staff would not refuse bookings if patients have medical problems which require treatment from our doctors.” The Appellant says that this is not true, for she has been rejected by D’s clinic.

46. The Respondent takes the view that this is a general statement made by D concerning the practice of his clinic. This statement is not the Appellant’s personal data.

47. We agree with the Respondent.

Correction K

48. The Appellant requests for deletion of the sentence “I have been told by our clinic staff that on a number of occasions, you cancelled bookings because of your busy schedule.” The Appellant says that she has only “rescheduled” but not “cancelled” appointments.

49. The Respondent considers that “rescheduling” means cancelling an appointment and making a new appointment. Further, whether the Appellant’s appointments were “rescheduled” or “cancelled” are not matters relating to accuracy of personal data.

50. We agree with the Respondent.

Correction L

51. The Appellant requests for deletion of the sentences “*Our clinic nurses sometimes had to remind me that other patients were waiting. I would not regard this as improper because other patients might need urgent attention.*” The Appellant says that these are untrue.

52. The Respondent is of the view that these sentences are not the Appellant’s personal data.

53. We are of the same view.

Correction M

54. (a) The Appellant requests to change the word “*agenda*” to “*pre-consultation note*” and to delete some words in the paragraph targeted by this correction request. The Appellant says that the purpose of “*pre-consultation note*” is to save D’s time by stating the Appellant’s questions and progress of the Appellant’s condition ahead of the consultation.

(b) The Appellant also says that the statement “*almost all the consultations lasted a lot longer than 15 minutes*” was factually inaccurate.

55. The Respondent takes the view that:

(a) As to the first request, this is a choice of words and does not involve the Appellant’s personal data.

- (b) As to (b), the Respondent is unable to decide that the statement mentioned by the Appellant is factually inaccurate. See Administrative Appeal No. 74 of 2011.

56. We agree with the Respondent.

Correction N

57. As to the sentence *“I cannot agree with you that “many of my (your) problems were not taken care of and deteriorated” due to “limitation” on time”* in the termination letter, the Appellant requests to change *““limitation” on time”* to *“one condition only per consultation”*.

58. The Respondent considers that the sentence is supported by the Appellant’s email to D dated 31 May 2012, in which the Appellant mentioned *“one problem only, and 15 min. each consultation”*. Further, D was expressing his own opinion in the sentence. The sentence is therefore not subject to a data correction request.

59. We agree with the Respondent.

Correction R

60. As to the sentence *“I understand you have approached over 20 orthopaedic surgeons in Hong Kong ...”* in the termination letter, the Appellant requests to add *“(including trainees in QMH)”* after *“orthopaedic surgeons”* and change *“Hong Kong”* to *“Hong Kong and Taiwan”*.

61. The Respondent takes the view that this statement is D’s personal understanding and is not subject to a data correction request.

62. We agree with the Respondent.

Correction U

63. The Appellant requests for deletion of “*You are now receiving treatment from [Dr X]. [Dr X] was referred by me.*” The Appellant says that D has only referred Dr X for the Appellant’s foot problem, but not for the Appellant’s neck, shoulder and knee problems.

64. The Respondent considers that the statements only mention referral to Dr X and are not inaccurate.

65. We are of the same view.

Correction V

66. As to the sentence “*you had been under the continuous care of [the clinic] GP ... and other specialists e.g....., doctors in Taiwan, and doctors at [the hospital] for advice and treatment*” in the termination letter, the Appellant requests for deletion of the whole sentence for (1) the said GP is not an orthopaedic doctor, and (2) the Appellant only obtained second opinion but not treatment from the said doctors.

67. The Respondent takes the view that “treatment” provided by a doctor means the advice and the care provided by him to the patient, and can include “second opinion”. Further, D has stated clearly in the statement that the first doctor mentioned therein was a GP. There is no inaccuracy in the statement.

68. We share the same view.

Corrections O, P, Q, S, T and W

69. The Respondent is of the following views:

- (a) Corrections O, S and W concern statements depicting D's thinking, namely, he did his best to communicate with the Appellant (Correction O), he believed that the Appellant should seek medical opinions from other doctors (Correction S), and it seemed that the Appellant never had a problem with referral (Correction W);
- (b) Corrections P, Q and T concern statements describing D's personal preferences on certain matters, namely discussing the Appellant's medical condition with the Appellant during face-to-face consultations instead of via email or facsimile (Correction P), not arguing with the Appellant on matters unrelated to the Appellant's medical care (Correction Q), and the appropriate moment to advise patients to seek second opinions from other doctors (Correction T);
- (c) D's thoughts and preferences are not matters subject to data correction requests.

70. We agree with these views.

The termination letter as a whole

71. The Appellant says that the termination letter as a whole would give the readers an impression that the Appellant is a "*bad patient*". As a result of the termination letter, no doctor is willing to take up her case and she has difficulties in finding a doctor to look after her.

72. In the termination letter, D told the Appellant the termination of the doctor-patient relationship and gave reasons. Understandably, the Appellant would regard herself as being described as a “bad patient” in the termination letter. However, this is not a ground for compelling D to change his comments and opinion as stated in the termination letter by using a data correction request. See Administrative Appeal No. 22 of 2000.

73. We observe that there is no evidence showing that as a result of the termination letter, the Appellant has difficulties in finding a doctor looking after her. The termination letter is a letter from D to the Appellant. There is no evidence that D has passed this letter to any person other than the Appellant. Further, there is no evidence showing that any doctor has refused to accept the Appellant as his or her patient after reading the termination letter.

The 5 Audio Recordings

74. We have heard the 5 audio recordings in the appeal hearing.

- (a) The 1st audio recording captures the telephone conversation between the Appellant and a female staff member in D’s clinic. According to the Appellant, the telephone conversation took place on 11 December 2013. They were talking about a voucher in the conversation.
- (b) The 2nd audio recording captures the telephone conversation between the Appellant and a nurse of Dr Y. According to the Appellant, the telephone conversation took place on 26 November 2013. The nurse told the Appellant that Dr Y would not take up problems of that kind.

The nurse told the Appellant that Dr Y asked the Appellant to go back to see Dr X.

- (c) The 3rd audio recording captures the telephone conversation between the Appellant and a female staff member in D's clinic. According to the Appellant, the telephone conversation took place on 23 January 2014. In this telephone conversation, the Appellant was complaining about D not giving her appointment.
- (d) The 4th audio recording captures the telephone conversation between the Appellant and a female manager in D's clinic. According to the Appellant, the telephone conversation took place on 21 May 2014. In this telephone conversation, the Appellant was asking for provision of information, and the female manager asked the Appellant to list out the information sought by her.
- (e) The 5th audio recording captures the telephone conversation between the Appellant and the same female manager in D's clinic. According to the Appellant, the telephone conversation took place on 26 May 2014. In this telephone conversation, the female manager asked the Appellant to supply a data access request.

75. We do not see how these 5 audio recordings can be relevant to the issues in this appeal:

- (a) The voucher discussed in the 1st audio recording is really not relevant to this appeal at all.

(b) The Appellant says that the 2nd audio recording is evidence showing that the sentence *“Please understand that our clinic is a commercial private clinic and our staff would not refuse booking if patients have medical conditions which require treatment from our doctors”* (Correction J) is untrue, for Dr Y and D are in the same medical centre, and the 2nd audio recording shows that Dr Y has refused to take up her case. We do not think that the 2nd audio recording is relevant to this appeal:

(i) The term “our clinic” does not necessarily mean the whole medical centre and it can mean only D’s clinic in the centre.

(ii) In the telephone conversation, the Appellant was told that Dr Y would not take up problems of that kind, and Dr Y asked the Appellant to go back to see Dr X. Even taking Dr Y is a doctor in “our clinic”, we do not see any contradiction between the telephone conversation and the sentence targeted by Correction J.

(iii) Further, the sentence is a statement made by D concerning the practice of his clinic. The sentence is not the Appellant’s personal data and is not subject to a data correction request.

(c) D informed the Appellant the termination of doctor-patient relationship on 2 June 2012. It would not be surprised that D would not give appointment to the Appellant after 2 June 2012. The 3rd audio recording cannot be relevant to this appeal.

- (d) The 4th and the 5th audio recordings concern request for information and a data access request. The subject matter in this appeal is the DCR. Hence, the 4th and the 5th audio recordings would not be relevant evidence.

76. Since all the 5 audio recordings are not relevant to this appeal, we refuse to admit the same as evidence.

77. For completeness sake, even if the 5 audio recordings can be admissible evidence, we would not attach any weight to the same. According to the Appellant, the 1st audio recording captures the entire telephone conversation, and the 2nd audio recording is also a record of the complete conversation. However, that means the 3rd to the 5th audio recordings are not records of complete conversations. Further, we do not know the context of each telephone conversation. In these circumstances, it would be dangerous to rely upon these audio recordings to make any findings.

D. The Anonymity Order

78. We now give reasons for the Anonymity Order.

79. The Respondent and the Party Bound agree that the provisional anonymity order be made absolute. The Appellant agrees that her identity should be protected by an anonymity order, but says that the identity of the Party Bound should be revealed to the public.

80. The general rule is that parties are named in judgments, and their identities would be revealed to the public. In order to have an anonymity order,

there must be reasons justifying departure from this general rule. Each case must be examined upon its own facts.

81. In this case, we have seen medical evidence showing the Appellant's health condition. As a result of this, we are satisfied that the Appellant's identity should not be revealed to the public.

82. The Appellant says that the Party Bound should not be protected by an anonymity order, for there is no reason in support of an anonymity order in favour of the Party Bound. Further, if the Party Bound has done nothing wrong, it would do no harm to the Party Bound if revealing his identity to the public.

83. A party initialing the proceedings should be regarded as having accepted the public nature of the proceedings, and hence it would be difficult for him to get an anonymity order. However, a defendant or a third party is a party being dragged into the proceedings. A relatively lenient approach should be adopted in considering making an anonymity order in favour of a defendant and a third party.

84. The Party Bound through his solicitor submits to this Board that this appeal has already given him much pressure. Revealing his name to the public would place him under greater pressure.

85. Even if one can get a favourable judgment at the end of certain legal proceedings, the pressure caused by the proceedings is real and substantial. The Party Bound is a party dragged into this Appeal by the Appellant. While there is an anonymity order in favour of the Appellant, as a matter of fairness, we are

of the view that the identity of the Party Bound should also be protected by an anonymity order.

E. Conclusion

86. For the reasons above, we agree with the Decision and dismiss the appeal. No party seeks costs, and we make no order as to costs.

87. We thank the parties for the valuable assistance given to this Board.

(signed)

(Mr Liu Man Kin)

Deputy Chairman

Administrative Appeals Board

Annex A – Letter from the Party Bound to the Appellant dated 2 June 2012

Dear [A],

I write in reply to the questions raised by you in your recent emails. I would first of all thank you for being so frank with me about your feeling and emotion.

You first consulted me on 2 December 2008. Your last consultation with me was on 12 December 2011. There were more than 65 [Correction A] consultations in these 3 years. You suffered from multiple orthopaedic problems involving your knees, neck, back and shoulders [Correction B]. The condition fluctuated and I understand you were very disturbed by your medical condition during this period of time.

Unfortunately, in 2009, you started to express a lot of dissatisfaction against me and my clinic staff. My clinic staff and I have tried our best to resolve any misunderstanding. Despite our repeated effort, it seems you still had a lot of dissatisfaction with our clinic even though our clinic staff and I had taken all reasonable steps to try to help you. On 23 August 2010, you wrote to us using a table to set out your numerous complaints against our clinic nurses. Understandably, the staff of our clinic were very upset by these complaints which in their view, were very unreasonably made. [Correction C]

As I have already explained to you for many times, doctor-patient relationship is a relationship which builds on trust. Doctors enter into such a relationship with a commitment to provide their patients with quality service. However, when circumstances beyond the doctor's control affect his ability to achieve this, the doctor may have no choice but to terminate the relationship. [Correction D]

On 15 October 2010, I discussed with you the option for you to seek medical treatment [Correction E] from other doctors as I might not be able to solve all your problems. Despite the offering of such option, you continued to seek my medical treatment from October 2010 to December 2011. There were 23 consultations during the said period of time. On a number of occasions, I had still emphasized to you that you could seek medical treatment from other doctors. I had also explained to you that I might not be the most suitable

doctor to help you because I might not be able to improve your medical condition substantially [Correction F].

The last consultation was on 12 December 2011 and you have not come to see me thereafter [Correction G]. I understand you have been seeking medical advice from [Dr. X] who is a very experienced orthopaedic surgeon. I would regard our doctor-patient relationship as having come to an end. I think this is a right decision by both of us in the circumstances.

Unfortunately, since December 2011, you have kept sending emails to me and my clinic making numerous complaints. Our clinic staffs have had numerous telephone conferences with you to address these issues despite the fact that you were no longer seeing me for medical treatment. [Correction H]

You have recently threatened to lodge a complaint with the Medical Council against me [Correction I]. I would take this opportunity to give an explanation in the hope of avoiding any misunderstanding.

Appointments

1. You accused our clinic staff of not facilitating the making of appointments.
2. Please understand that our clinic is a commercial private clinic and our staff would not refuse bookings if patients have medical conditions which require treatment from our doctors. [Correction J]
3. I have been told by our clinic staff that on a number of occasions, you cancelled bookings because of your busy schedule [Correction K]. Sometimes, our clinic also had a busy schedule and the clinic might not be able to accommodate your request for bookings on short notices. I am sorry that our clinic was unable to always accommodate your request.
4. I was also told that you had repeatedly tried to make appointments to see me for “clarifying administrative issues.” Our clinic staff might be unable to assist you because the medical appointments were not meant to deal with administrative matters unrelated to the provision of medical services to our patients.

5. I regret to say to you that having discussed with our clinic staff, we do not think that there was any improper handling of your requests on the part of our staff.

Restrictions relating to consultation

6. You accused me of “limiting” the consultation time to 15 minutes. You alleged that our nurses interrupted our consultations.
7. There might be misunderstanding of the situation on your part. For patients coming for follow up, our clinic would usually reserve 15 minutes for each follow-up consultation. This is an administrative practice but it does not mean the doctor would only see the patient for no more than 15 minutes. For new patients or existing patients complaining of new symptoms, usually more time would be allocated. This is important for time management. Otherwise, other patients may be kept waiting.
8. In your case, our clinic staff knew you always asked numerous questions and required long consultation period, the clinic staff therefore usually reserved at least 30 minutes for you. Again, this does not mean I would only see you for no more than 30 minutes. It is a fact that very often, many consultations overran. Our clinic nurses sometimes had to remind me that other patients were waiting. I would not regard this as improper because other patients might need urgent attention [Correction L].
9. On some of the occasions, you had prepared a written “agenda” requesting me to deal with numerous issues set out in the “agenda” during the medical consultation. I think I have already explained to you that the medical consultation was not meant to be a meeting and the approach adopted by you was very odd. Having said that, I still tried my best to answer each and every question raised by you. I would remind you to try to limit the consultation to 15 minutes even though as a matter of fact, almost all the consultations lasted a lot longer than 15 minutes [Correction M].
10. I cannot agree with you that “*many of my (your) problems were not taken*”

care of and deteriorated” due to the “limitation” on time [Correction N].

Email/Fax communications

11. You accused me of refusing to communicate with you. This is not true. I did my best to communicate with you on each and every medical consultation [Correction O].
12. You have sent about 100 emails/facsimiles to me and my clinic staff since 2009. I preferred to discuss with you about your medical conditions and the medical treatment during the medical consultations. I did not think it was appropriate for me to provide treatment via email/facsimile. I certainly would not choose to debate with you by correspondences. [Correction P]
13. Please understand that I respect your rights to express your opinions even though they may differ from mine. It would not be right for me to argue with you, especially on matters unrelated to the provision of medical care. [Correction Q]

Serving your best interest

14. You have multiple orthopaedic problems. Unfortunately, despite my best effort to help, I have not been able to substantially improve your condition.
15. I understand you have approached over 20 orthopaedic surgeons in Hong Kong [Correction R] for treatment and I am sure there are doctors who are more capable than me of providing the treatment that suits your need.
16. Every doctor has his or her own limitations. When I find myself not able to assist patients with their medical problems, I would help my patients explore other treatment options.
17. In October 2010, I was of the honest view that you should consider seeking medical opinions from other doctors who might be more capable than me. [Correction S]

18. I am very glad that obviously you have now found the doctor(s) who can provide better services to you. I feel very relieved.

Alleged wrongful termination

19. You made the accusation of “wrongful termination” of doctor-patient relationship against me. As having explained above, I would in appropriate cases, see it as my duty to give an honest opinion to my patient that he or she should consider seeking medical opinions from other doctors. [Correction T]
20. This option was offered to you in October 2010 but apparently you decided to continue to see me.
21. As a matter of fact, you were not “abandoned” and you continued to receive medical treatment from me after October 2010. There was no termination of doctor-patient relationship at that time.

Referral

22. You accused me of not referring you to other doctors. This is untrue. You are now receiving treatment from [Dr. X]. [Dr. X] was referred by me. [Correction U]
23. As a matter of fact, you had been under the continuous care of [the clinic] GP ... and other specialists e.g., doctors in Taiwan, and doctors at [the hospital] for advice and treatment. According to your own emails, you had consulted 20 orthopaedic doctors. [Correction V]
24. I did not refer you to see so many doctors but it seems the truth is you never had a problem with referral. [Correction W]

Relationship of trust

In view of your numerous accusations against my professional integrity, I am afraid the relationship of trust necessary for establishing a good doctor-patient relationship no longer exists. I am sorry for not being in a position to provide

further medical services to you but this does not mean you cannot receive good medical services from other doctors.

Finally, I sincerely hope that you will receive the best medical care from other doctors.

Yours sincerely,

[D]

Annex B- The Corrections requested in the Data Correction Request from the Appellant to the Party Bound dated 13 April 2014

Correction A

Change “*more than 65*” to “*61*”.

Correction B

Add “*foot*”.

Correction C

Strike off the whole paragraph.

Correction D

Strike off the whole paragraph.

Correction E

Change “*medical treatment*” to “*second opinion*”.

Correction F

Strike off “*as I might not be able to solve all your problems*”.

Correction G

Strike off “*and you have not come to see me thereafter*”.

Correction H

Strike off this paragraph.

Correction I

Change to “*You have recently informed me that you do not want to lodge a*

complaint with the Medical Council but you would if I do not want to communicate with you.”

Correction J

Strike off the whole paragraph.

Correction K

Strike off *“I have been told by our clinic staff that on a number of occasions, you cancelled bookings because of your busy schedule.”*

Correction L

Strike off *“Our clinic nurses sometimes had to remind me that other patients were waiting. I would not regard this as improper because other patients might need urgent attention”*.

Correction M

1. Change “agenda” to “pre-consultation note”.
2. Strike off the statements as indicated.

~~“On some of the occasions, you had prepared a written “agenda” requesting me to deal with numerous issues set out in the “agenda” during the medical consultation. I think I have already explained to you that the medical consultation was not meant to be a meeting and the approach adopted by you was very odd. Having said that, I still tried my best to answer each and every question raised by you. I would remind you to try to limit the consultation to 15 minutes even though as a matter of fact, almost all the consultations lasted a lot longer than 15 minutes.”~~

Correction N

Change “limitation on time” to “one condition only per consultation”.

Correction O

Strike off *“This is not true. I did my best to communicate with you on each and every medical consultation.”*

Correction P

Strike off *“I preferred to discuss with you about your medical conditions and the medical treatment during the medical consultations. I did not think it was appropriate for me to provide treatment via email/facsimile. I certainly would not choose to debate with you by correspondences.”*

Correction Q

Strike off *“It would not be right for me to argue with you, especially on matters unrelated to the provision of medical care.”*

Correction R

1. Add *“(including trainees in QMH)”* after the *“orthopedic surgeon”*
2. Change *“Hong Kong”* to *“Hong Kong and Taiwan”*

Correction S

Strike off the whole paragraph.

Correction T

Strike off *“As having explained above, I would in appropriate cases, see it as my duty to give an honest opinion to my patient that he or she should consider seeking medical opinions from other doctors.”*

Correction U

Strike off *“This is untrue. You are now receiving treatment from [Dr. X]. [Dr. X] was referred by me.”*

Correction V

Strike off the whole paragraph.

Correction W

Strike off "*but it seems the truth is you never had a problem with referral.*"