

立法會
Legislative Council

LC Paper No. CB(2)1458/00-01
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HS

LegCo Panel on Health Services

Minutes of meeting
held on Monday, 9 April 2001 at 8:30 am
in Conference Room A of the Legislative Council Building

- Members Present** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP (Chairman)
Dr Hon LO Wing-lok (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han
Hon Bernard CHAN
Dr Hon YEUNG Sum
Hon Andrew CHENG Kar-foo
Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
- Member Absent** : Hon Michael MAK Kwok-fung
- Member Attending** : Hon Audrey EU Yuet-mee, SC, JP
- Public Officers Attending** : All items
Miss Joanna CHOI
Acting Deputy Secretary for Health and Welfare

Action

Miss Angela LUK
Principal Assistant Secretary for Health and Welfare 1

Mr Eddie POON
Principal Assistant Secretary for Health and Welfare 3

Miss Winsome AU
Assistant Secretary for Health and Welfare

Dr P Y LAM, JP
Deputy Director of Health

Miss Laurene CHOW
Head (Boards & Councils), Department of Health

Dr Heston KWONG
Principal Medical & Health Officer, Department of Health

Dr W M KO
Deputy Director, (Operations & Public Affairs)
Hospital Authority

Item V

Mr John DEAN
Principal Assistant Secretary for Home Affairs

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1225/00-01(01) - (02) and CB(2)1232/00-01(01))

Members agreed to discuss the following issues at the next meeting to be held on 14 May 2001-

- (a) Proposed amendments to the Smoking (Public Health) Ordinance;
- (b) Oral health for the elderly; and
- (c) Privately purchased medical items.

II. Chiropractors Registration Ordinance (Cap. 428) (Commencement) Notice 2001 and Chiropractors Registration (Fees) Regulation

2. At the invitation of the Chairman, Principal Assistant Secretary for Health and Welfare 1 (PAS/HW(1)) introduced the Legislative Council (LegCo) Brief on the Chiropractors Registration Ordinance (Cap. 428) (Commencement) Notice 2001 which would bring into force provisions relating to the registration and disciplinary procedures of the Chiropractors Registration Ordinance on April 6 and June 8, 2001 respectively; and the Chiropractors Registration (Fees) Regulation which set out the fees payable for registration as chiropractors and other related matters. PAS/HW(1) further said that these two items of subsidiary legislation had been published in the Gazette on 6 April 2001 and would be tabled at LegCo on 25 April 2001 for negative vetting.

3. Mr LAW Chi-kwong enquired about the rationale for setting the fees payable for the registration of chiropractors to recover only 70% of the costs at 2000-01 prices. PAS/HW(1) explained that the reason for doing so was because at present similar fees in respect of other health care professionals had not yet achieved full cost recovery. For example, fees payable for the registration of Chinese medicine practitioners (CMPs), adopted last year, only recovered 70% of the costs of administering the registration system. PAS/HW(1) further said that the Administration intended to achieve full cost recovery of the fees payable for registration of chiropractors in three years. Mr LAW remarked that just because a phased approach was adopted in recovering the full cost of administering the registration of CMPs did not mean that the same approach should be adopted for the registration of chiropractors. Mr LAW said that he could understand the reasons for adopting a phased approach in recovering the full cost of administering the registration of CMPs, having regard to fact that about 7 000 CMPs practising locally were required to become registered CMPs in order to continue their practice and that such a requirement was expeditiously brought into force after the

enactment of the Chinese Medicine Ordinance. This situation, however, was entirely different from that of the registration of chiropractors which would only affect about 50 chiropractors and that the Chiropractors Council had been making preparation to enable the registration of chiropractors since its establishment in 1993. Mr LAW further said that with the number of applications as registered CMP increasing over time, the unit cost of processing such should come down, and this, in turn, should devoid the need to raise the fees concerned in order to achieve full cost recovery. This situation, again, would not apply to the registration of chiropractors, as it was envisaged that only one to two months would be needed for all practising chiropractors to complete the registration procedures. In this connection, Mr LAW was of the view that the fees payable for the registration of chiropractors should be set to achieve full cost recovery at the outset, as it was unreasonable that public money should be used to subsidize the cost of administering the registration system concerned.

4. Dr LO Wing-lok enquired when the registration of chiropractors would commence, and who would bear the legal cost in the event that an appeal was made to the Court of Appeal to reverse a ruling made by the Chiropractors Council. In view of the fact that there were at present only about 50 chiropractors practising in Hong Kong, Dr LO wondered whether there would be enough registered chiropractors to shoulder the workload of regulating their own profession.

5. PAS/HW(1) responded that the implementation of the Chiropractors Registration Ordinance (Cap. 428) (Commencement) Notice 2001 and the Chiropractors Registration (Fees) Regulation would allow the Chiropractors Council to make the Chiropractors (Registration and Disciplinary Procedure) Rules and to receive applications for registration in the second half of the year. Regarding Dr LO's second question, PAS/HW(1) said that the legal cost would be borne by the Government. As to Dr LO's last question, PAS/HW(1) replied in the positive. She however pointed out that the small number of chiropractors and that all practising chiropractors were trained and qualified in different overseas countries had indeed attributed to the long time taken to come to a consensus on the registration system and the disciplinary investigations and proceedings.

III. Proposed amendments to health-related ordinances (LC Paper No. CB(2)1225/00-01(03))

6. Introducing the Administration's paper, PAS/HW(1) said that in order to remove some out-dated provisions, clarify some existing ambiguities and rectify some technical errors in a number of ordinances related to the regulation of health care professionals, institutions and products, the Medical and Health Care (Miscellaneous Amendments) Bill 2000 was introduced into LegCo on 19 January

Action

2000. Pending the establishment of a Bills Committee, the Bill lapsed at the end of the 1999-2000 legislative session. The Administration had since reviewed the proposed amendments contained in the 2000 Bill and identified further areas for improvement. A new bill would be introduced to rectify these defects. PAS/HW(1) then briefed members on the more significant proposed amendments to various health-related ordinances set out in paragraph 3 of the paper. The Administration would take into account members' comments before finalizing the bill for subsequent introduction into LegCo.

7. Dr YEUNG Sum said that it was very difficult for members to give views on whether the proposed amendments to various health-related ordinances should be supported, given the scant information contained in the Administration's paper. Dr YEUNG was of the view that the Administration should provide a separate paper detailing the background and the reasons for proposing amendments to each affected health-related ordinance to enable members to make an informed decision on the matter.

8. PAS/HW(1) responded that the reason for seeking members' comments on the proposed amendments to various health-related ordinances in one lot was because these amendments were mostly straightforward and technical in nature. Moreover, many of them were previously included in the Medical and Health Care (Miscellaneous Amendments) Bill 2000. PAS/HW(1) further said that members would not be bound by the views they gave at this stage, as they would have ample opportunities to discuss the proposed amendments after the bill was introduced into LegCo. PAS/HW(1) reiterated that the intention of this meeting was to collect members' views on the proposed amendments before finalizing the bill for introduction into LegCo.

9. Ms LI Fung-ying echoed Dr YEUNG's view, and enquired whether the relevant regulatory bodies had been consulted. PAS/HW(1) replied in the positive, adding that the bodies concerned supported the amendments. Ms LI remarked that if that was the case, the Administration's paper should provide information on the outcome of its consultation with the relevant regulatory bodies.

10. Referring to a proposed amendment to the Chiropractors Registration Ordinance whereby a registered chiropractor applying for the issue of or renewal of a practising certificate would be required to provide information as to whether he/she had been convicted of a criminal offence or found guilty of professional misconduct, Dr LO Wing-lok opined that such an arrangement of requiring all registered chiropractors to provide proof as to whether they had been convicted of a criminal offence or found guilty of professional misconduct was at variance with the principle of common law. Dr LO further said that it was unclear as to what sort of information the persons concerned must provide in order to comply with such a requirement, and the administrative arrangements to be put in place to vet

Action

the information provided. In view of the aforesaid, Dr LO was of the view that a better way was to require those registered chiropractors who had been convicted of a criminal offence or found guilty of professional misconduct to report to the Chiropractors Council within a specified period; failing which, they would be deemed to have violated the law. Noting the proposed amendment to the Pharmacy and Poisons Ordinance so that the Hospital Authority (HA) instead of the Hong Kong Branch of the British Medical Association (BMA) would nominate a member to the Pharmacy and Poisons Board, Dr LO enquired why the replacement was HA and not a medical professional body.

Adm

11. On the proposed amendment to require a registered chiropractor applying for the issue of or renewal of a practising certificate to provide information as to whether he/she had been convicted of a criminal offence or found guilty of professional misconduct, PAS/HW(1) said that such an amendment was intended to facilitate the implementation of section 9(2) of the Chiropractors Registration Ordinance which stipulated that the Chiropractors Council might refuse to register a person as a registered chiropractor who had been convicted in Hong Kong or elsewhere of any offence which might bring the profession of chiropractic into disrepute or had committed misconduct or neglect in a professional respect. The Administration was considering whether the proposed amendment should be made to the principal ordinance or in the form of a subsidiary legislation. PAS/HW(1) further said that the Chiropractors Council had discussed and supported the proposed amendment. Nevertheless, she agreed to convey Dr LO's suggestion to the Chiropractors Council.

12. As regards the proposed amendment to the Pharmacy and Poisons Ordinance so that HA could nominate a member to the Pharmacy and Poisons Board (the Board), PAS/HW(1) said that such an amendment was proposed by the Board itself as nomination by BMA of a member to the Board was longer considered appropriate. At the same time, as HA was the major user of pharmaceutical products in Hong Kong, the Board considered it appropriate for HA to nominate a member to the Board. Dr LO remarked that the implementation of the proposed amendment would result in an increase of government representation on the Board. PAS/HW(1) responded that there was no question of such a situation as the majority of Board members were registered pharmacists, registered medical practitioners and academics in pharmacology. She further said that the person to be nominated by HA to serve on the Board would be a professional from the medical or pharmacology field.

13. Ms Cyd HO enquired about the criteria for using an omnibus bill to introduce amendments to various ordinances, and about the timetable for introducing the proposed bill.

14. PAS/HW(1) responded that the reason for using an omnibus bill to

Action

introduce amendments to various health-related ordinances was because all the proposed amendments were mostly straightforward and technical in nature. The Administration therefore considered it more efficient to effect such amendments by way of an omnibus bill, rather than introducing an amendment bill for each affected ordinance. As to Ms HO's second question, PAS/HW(1) said that the Administration would take into account members' views before finalizing the bill for subsequent introduction into LegCo in the coming months.

15. Senior Assistant Legal Adviser (SALA) said that to his understanding, there were no criteria as to when an omnibus bill should be used to introduce amendments to various ordinances. However, an omnibus bill was more frequently used by the Administration during the past few years. SALA further drew members' attention to the fact that the proposed amendments in question formed part of the Medical and Health Care (Miscellaneous Amendments) Bill 2000. When the Bill was considered by the House Committee on 21 January 2000, members considered it necessary to study the policy aspect of the proposed changes to the legislative scrutiny mechanism in respect of the subsidiary legislation made under the Pharmacy and Poisons Ordinance i.e. from positive to negative vetting, as set out in paragraph 3(a) and (b) of the Administration's paper.

16. Ms Cyd HO commented that the fact that some amendments were straightforward did not necessarily mean that they were insignificant and did not warrant detailed study, as they sometimes would entail policy changes and impact on other ordinances. Referring to the proposed amendment to the Hospital, Nursing Homes and Maternity Homes Registration Ordinance to enable different registration fees to be imposed on different private hospitals, nursing homes and maternity homes according to their capacity, Ms HO said that the Administration should provide the proposed registration fees concerned in its paper to the Panel. PAS/HW(1) clarified that the proposed amendment was intended to provide the legislative framework to enable different registration fees to be levied on private hospitals, nursing homes and maternity homes according to their capacity. The actual fee levels would be decided later after consultation with parties concerned and would be dealt with in a separate piece of legislation.

17. Mr LAW Chi-kwong said that as some of the proposed amendments would involve policy changes, such as changing the vetting by LegCo from positive to negative vetting, and fees to be charged, such as imposing different registration fees on private hospitals, nursing homes and maternity homes according to their capacity, it would be more appropriate for the Administration to introduce separate amendment bills so that members' scrutiny of the proposed amendments could be more focused and therefore more efficient. Mr LAW further said that to facilitate smooth scrutiny of the proposed amendments by a Bills Committee later on, the Administration should brief members on those proposed amendments which would result in policy changes if implemented before the bill was introduced into

LegCo. PAS/HW(1) reiterated that the purpose of this paper was to seek members' views on the more significant proposed amendments to various health-related ordinances. The setting of registration fees would be dealt with in a separate subsidiary legislation to be introduced later, if the proposed amendment to enable different registration fees to be imposed on private hospitals, nursing homes and maternity homes according to their capacity was passed by LegCo. PAS/HW(1) further said that the Administration would take into account members' views expressed at the meeting before coming to a decision on how the proposed amendments to various health-related ordinances should be introduced.

18. Dr TANG Siu-tong raised the following questions -

- (a) The reason why HA and not a health care professional body was chosen to replace BMA to nominate a member to serve on the Pharmacy and Poisons Board;
- (b) Whether "other than a formal complaint" as referred to in paragraph 3(g) of the Administration's paper meant information received from informal sources such as a newspaper report; and
- (c) The reason for amending the Chiropractors Registration Ordinance to provide that the rules made by the Chiropractors Council would be subject to the approval of SHW, in addition to negative vetting by LegCo.

19. Responding to Dr TANG's first question, PAS/HW(1) reiterated that the reason for designating HA to nominate a member to serve on the Pharmacy and Poisons Board was because HA was the major user of pharmaceutical products in Hong Kong. PAS/HW(1) replied in the positive to Dr TANG's second question, and further said that the reason for the proposed amendment was to provide more flexibility to the Chiropractors Council to deal with complaints. As regards Dr TANG's last question, PAS/HW(1) said that the proposed amendment was to rectify an omission in the Chiropractors Registration Ordinance, having regard to the fact that in practice all rules made by the Chiropractors Council had to be approved by SHW before they were submitted to LegCo for negative vetting.

20. Dr TANG echoed Dr LO's view that designating HA to nominate a member to serve on the Pharmacy and Poisons Board was tantamount to increasing government representation on the Board, having regard to the fact that HA was funded by the Government. Dr TANG also expressed concern that enabling the Chiropractors Council to investigate an alleged misconduct of a practitioner based on information received other than a formal complaint would put the Council in a difficult position as it might be accused of not performing its duty if it failed to, say, investigate an alleged complaint reported by the media.

Action

PAS/HW(1) undertook to convey Dr TANG's concern to the Chiropractors Council.

21. Concerning HA's representation on the Pharmacy and Poisons Board, Deputy Director, Hospital Authority (DDHA) said that it was not a question of HA replacing BMA as the nature of the two organizations was different. The reason for having the representation of BMA on the Board was because of its political significance prior to reunification. However, this was no longer appropriate following Hong Kong's return to China on 1 July 1997. On the other hand, there was a practical need for having a representative from HA on the Board given that HA was the major user of pharmaceutical products in Hong Kong. He pointed out that prior to the setting up of HA, the Chief Pharmacist nominated by the then Medical and Health Department also represented the views of the public hospitals. Such a representation however was amiss following the setting up of HA. He added that during his tenure as a member of the Board representing the Hong Kong Medical Association, he was regarded by many Board members as HA's representative. He pointed out that the presence of a HA representative was very useful in consideration of the regulation of pharmaceutical products and poisons and related matters.

22. Dr YEUNG Sum and Mr LAW Chi-kwong urged the Administration to introduce separate amendment bills to propose amendments to various health-related ordinances set out in the Administration's paper. PAS/HW(1) responded that the Administration would consider members' views. She however pointed out that this would mean it would take longer to complete the legislative process as additional legislative slots had to be secured. Dr YEUNG and Mr LAW responded that although more time might need to complete the legislative process, less time would be required to scrutinize the individual bills if more thorough consultation with members was conducted before they were introduced into LegCo. Ms Cyd HO reiterated her opposition to the use of an omnibus bill to propose amendments to various health-related ordinances, as some of the proposed amendments involved policy changes and could impact on other ordinances. Moreover, if a Bills Committee was formed to study an omnibus bill, the question of quorum might arise as some Bills Committee members might only be interested in the proposed amendments to certain ordinance and would not attend a particular Bills Committee meeting if the subject matter to be discussed did not interest them. Ms HO further said that the Administration should brief members on any bill or amendment bill which it intended to introduce into LegCo in the coming one to two years, before commencing the drafting of the bill or amendment bill. PAS/HW(1) assured members that the Administration would seek members' views as appropriate.

IV. Proposed amendments to the Human Organ Transplant Ordinance
(LC Paper No. CB(2)1225/00-01(04))

23. Principal Assistant Secretary for Health and Welfare 3 (PAS/HW(3)) briefed members on the Administration's paper which detailed the proposed amendments to the Human Organ Transplant Ordinance (the Ordinance). In particular, he highlighted the following proposed amendments -

- (a) A vice-chairman and a panel consisted of 14 members from the four categories, namely, registered medical practitioner, social worker, legally qualified person and other members, would be appointed by SHW. These panel members could stand in for the substantive members of the Human Organ Transplant Board (the Board) who were unable to perform their duties for reasons such as travel outside Hong Kong;
- (b) In view of the practical difficulties, such as the difficulty in locating the whereabouts of the donor when his/her organ previously removed for therapeutic purposes was now being used for transplant, it was proposed that the transplant of such organ, such as bone fragments, should not be subject to the requirements set out in section 5 of the Ordinance;
- (c) In order to specify clearly the role and functions of the Board in cases of imported organs, section 7 of the Ordinance would be amended to the effect that the imported organ must be accompanied by a certificate which was signed by a person in the country of origin who was acceptable to the Board; and the information contained in the certificate as specified in section 7(1)(a) to (e) must be satisfied by the Board before the import of the organ for the purpose of transplanting it into a person in Hong Kong;
- (d) Individual substantive members, panel members and officers of the Board should be accorded indemnity insofar as they acted in good faith in the exercise of the powers conferred on them by the Ordinance; and
- (e) The wording and structure of section 5 of the Ordinance would be revised to improve its clarity.

PAS/HW(3) further said that the proposed amendments to the Ordinance were mainly technical in nature, and would not result in any change in the Government's established policy on human organ transplant. The Administration had consulted the Board and HA, and they were generally in support of the proposed

Action

amendments. Subject to the progress of the drafting of the bill, the Administration intended to introduce it into LegCo within the current legislative session.

24. Miss CHAN Yuen-han enquired whether the appointment of temporary members to stand in for substantive members of the Board was a new arrangement; and, if so, what the existing arrangements were in dealing with the situation when the substantive members were unable to perform their duties for reasons such as travel outside Hong Kong. Miss CHAN further enquired whether the proposed amendment to not require the transplant of organs, such as bone fragments, to be subject to section 5 of the Ordinance would create difficulty for people who previously donated their bone fragments and would later on wish to claim them back for transplanting into their bodies.

25. PAS/HW(3) responded that the appointment of a pool of temporary members to stand in for substantive members of the Board as necessary was a new arrangement to enable the Board to function more efficiently when the Chairman and some substantive members were not available. He pointed out that at present the secretary of the Board would ask all of the nine Board members one month in advance as to whether they would be out of town the next month. If a substantive member replied that he/she would be out of town next month, the secretary would then look for a replacement, and the criteria would be that the person concerned must be of the same category as the substantive member to be replaced, i.e. if the substantive member was a registered medical practitioner, the person to replace him/her must also be a registered medical practitioner, and that the replacement must also be familiar with the provisions of the Ordinance. If a person who met the aforesaid criteria expressed an interest in standing in for the substantive member, the Board secretary would then ask SHW to issue a temporary appointment letter. If the person concerned accepted the temporary appointment, such a temporary appointment would be published in the Gazette.

26. Responding to Miss CHAN's second question, PAS/HW(3) said that the proposed amendment would not have any adverse effect on the donor who previously removed their bone fragments for therapeutic purposes and subsequently needed bone fragments transplant as bone fragments, unlike organs such as kidneys, did not need to match the blood and tissue types of the recipient, and there was a sufficient supply of bone fragments in the bone bank for transplant use. DDHA supplemented that the reason for having section 5 of the Ordinance was to avoid commercial dealings in human organs intended for transplant and to ensure that people donating their donors did so out of their free will. As there had been no commercial dealings in bone fragments intended for transplant since the enactment of the Ordinance, and having regard to the practical difficulties such as the difficulty of locating the whereabouts of the donor when his/her bone fragments previously removed for therapeutic purposes were now being used for

Action

transplant and that the recipient of bone fragments was not readily identifiable at the time of the removal of the bone fragments, the Administration therefore considered it better to streamline the procedure for bone fragment transplant. DDHA also pointed out that as a safeguard, the registered medical practitioner who was to transplant the organ was required to declare, to his/her best knowledge, that no payment prohibited by the Ordinance had been or was intended to be made and that the organ was removed primarily for therapeutic purpose of the donor.

27. Ms Audrey EU noted that as it was anticipated that some tissues which could not be transplanted at present might be transplantable in future because of rapid technology advancement in the medical field, the Administration had therefore proposed to provide SHW with the power to make a Schedule setting out organs that were not to be covered by the Ordinance. As such an amendment would have the effect of expanding the definition of organ, Ms EU enquired whether this would impact on the operation of the Ordinance. Ms EU further enquired whether the fact that bone fragments fell within the existing definition of organ had necessitated the need to propose that the transplant of such should not be subject to section 5 of the Ordinance, having regard to the practical difficulties. As there would be criminal sanctions for commercial dealings in human organs intended for transplant, Ms EU enquired about the number of cases whereby Hong Kong people traveled outside Hong Kong, such as to the Mainland, to purchase human organs for transplant purpose.

28. PAS/HW(3) responded that empowering SHW to make a Schedule setting out organs that were not to be covered by the Ordinance would not result in expanding the definition of organ. PAS/HW(3) explained that at present the Administrative Guideline issued by the Board had already set out certain organs, such as blood, bone marrow and gametes, not governed by the Board. However, the Administration and the Board now considered it better to formalize such exclusion by way of a schedule to the Ordinance. He was of the view that organs to be contained in the Schedule would be broadly the same as those set out in the Administrative Guideline issued by the Board. Regarding Ms EU's second question, PAS/HW(3) replied in the positive. As to Ms EU's third question, PAS/HW(3) said that the Health and Welfare Bureau and the Board had not received any complaints in this regard. He further said that the Ordinance was only targeted at commercial dealings in human organs intended for transplant which occurred in Hong Kong.

29. As bone fragments fell within the definition of organ, Ms Audrey EU enquired why they should be exempted from complying with section 5 of the Ordinance. Although the Ordinance did not govern commercial dealings in human organs intended for transplant which occurred outside Hong Kong, Ms EU enquired whether the Administration would follow-up such cases if they were public knowledge in Hong Kong.

Action

30. PAS/HW(3) responded that although the use of bone fragments for transplant purpose was proposed to be exempted from complying with section 5 of the Ordinance, the transplant of such would nevertheless be subject to a reporting requirement. This reporting requirement was in line with transplant of other organs like liver and kidney, etc, which was intended primarily for research purpose. As to Ms EU's second question, PAS/HW(3) responded that it was very difficult for the Administration to follow up cases of Hong Kong people purchasing human organs outside Hong Kong and then having the transplant of such organs performed thereat, as in most instances there would not be any complaints arising from such dealings because both the donors and the purchasers and/or recipients of the organs were willing parties to the transactions.

31. SALA informed the Panel that the Ordinance had defined an "organ" as any part of the human body consisting of a structured arrangement of tissues which, if wholly removed, could not be regenerated by the body, and included part of an organ. If the proposed amendment sought to provide SHW with the power to make a Schedule setting out organs that were not to be covered by the Ordinance, the amendment might have the effect of extending the definition of "organ" as stipulated in the Ordinance. DDHA responded that although the definition of organ was written as such in the Ordinance, it should be noted that there were different views on whether certain tissues should fall within the definition of organ, having regard to the characteristics of such tissues and their applications in practice. In this connection, he supported the proposed amendment to provide SHW with the power to make a Schedule setting out organs that were not to be covered by the Ordinance. PAS/HW(3) also said that although SHW would be given the power to draw up and amend the Schedule as he saw fit, the Schedule would be subject to the negative vetting procedures of LegCo before it could be adopted.

32. Dr YEUNG Sum queried whether the proposal to accord indemnity to individual substantive members, panel members and officers of the Board was to attract or retain people to serve on the Board. PAS/HW(3) responded that this was not the intention of the proposal, which was made in response to the views expressed in support of such provision by members of the Bills Committee on Human Organ Transplant (Amendment) Bill 1999. He further said that members and officers of the Board had always acted in good faith in the exercise of the powers conferred on them by the Ordinance, and the indemnity provision was primarily to give due reassurance to members and officers of the Board, having regard to the fact that the Board was required to deal with life-and-death cases, sometimes under great time pressure. According to the Department of Justice, even without the indemnity provision in the Ordinance, members and officers of the Board could still justify themselves in the court if they had acted in good faith in the exercise of the powers conferred to them by the Ordinance. The proposal to

add an indemnity provision in the Ordinance was therefore to formalize such a provision in the legislation.

V. Health issues in the Report of the HKSAR of the People's Republic of China in the light of the International Covenant on Economic, Social and Cultural Rights

33. Members did not raise any queries on the health issues contained in the Report of the HKSAR of the People's Republic of China in the light of the International Covenant on Economic, Social and Cultural Rights.

34. Dr YEUNG Sum enquired whether the Administration had conducted any investigation into a case whereby it was alleged that the reason why a patient suddenly died in a public hospital was because she did not receive appropriate medical care due to racial discrimination. DDHA responded that HA had conducted a thorough investigation into the case and concluded that the complaint made was unfounded. In addition, the case had also been considered by the coroner's court which returned a verdict of death by natural cause. DDHA pointed out that the aforesaid allegation had caused damage to the morale of the health care professionals and other staff of the hospital concerned. He understood and appreciated that there were individuals or organizations which were undertaking initiative against racial discrimination. However, he hoped that in future when any organizations wished to quote examples to strengthen their case, they must be careful in selecting the examples and should ensure that allegations made against health care professionals and staff were substantiated with facts rather than based on groundless accusations. Otherwise it would be grossly unfair to those dedicated health care workers.

35. There being no other business, the meeting ended at 10:50 a.m.