

Panel on Health Services

List of outstanding items for discussion
(position as at 14 May 2004)

**Proposed timing
for discussion**

1. Drug and treatment for retinal disorders

At the Panel meeting on 8 March 2004, Hon CHAN Yuen-han suggested that this item should be given priority for discussion.

2nd quarter of
2004

2. Requiring doctors to purchase insurance to indemnify patients for medical negligence or malpractice as a condition to practise medicine

At the Panel meeting on 8 March 2004, Hon CHAN Yuen-han suggested that this item should be given priority for discussion.

2nd quarter of
2004

3. Provision of primary care

At the Panel meeting of 8 April 2002, the Administration agreed to brief members on the provision of primary care in the future.

2nd quarter of
2004

4. Studies on long term health care financing

Item proposed by the Administration.

2nd quarter of
2004

5. Utilisation of the Training and Welfare Fund for the Hospital Authority

The Administration agreed at the meeting of the Finance Committee on 27 June 2003 to report on an annual basis to the Panel on Health Services on the utilisation of the Training and Welfare Fund for HA.

2nd quarter of
2004

**Proposed timing
for discussion**

6. Long term planning on the provision of hospital facilities on a territory-wide basis

Item proposed by the Administration.

4th quarter of
2004

7. Proposed legalisation of euthanasia

Item proposed by Hon CHOY So-yuk.

4th quarter of
2004

8. Adjustment of monthly allowance for HA staff appointed on or after 1 April 1998

At the Panel meeting of 8 March 2004, the Administration and HA were requested to revert to members on the ways for HA to maintain overall cost comparability with the civil service.

4th quarter of
2004

9. Proposed amendments to the Smoking (Public Health) Ordinance

At the Panel meeting on 8 July 2002, the Administration agreed to further assess the economic impact of the smoking ban and examine the feasibility of pooling together the resources of the departments under the new Health, Welfare and Food Bureau to carry out the smoking ban checks, and revert to members at further meetings.

4th quarter of
2004

10. Proposed amendments to the Chinese Medicine Ordinance (Cap.549)

The Complaints Division of the Legislative Council requested the Panel to follow up on the proposal raised by Hon Andrew WONG to amend the Chinese Medicine Ordinance (Cap.549) to enable the Chinese Medicine Practitioners Board to review the assessment result of a person who had failed to meet the alternative qualifying requirements to become registered Chinese medicine practitioner under section 92 of the Ordinance.

4th quarter of
2004

**Proposed timing
for discussion**

11. Review of the charges for public hospital services and the fee waiver mechanism

Item proposed by Hon LAW Chi-kwong.

To be fixed

12. Safeguarding patent rights of pharmaceutical products

Item proposed by Dr Hon LAW Chi-kwong. Please see **Appendix.**

To be fixed

Council Business Division 2
Legislative Council Secretariat
14 May 2004



民主黨立法會議員秘書處

Secretariat of Legislative Councillors
The Democratic Party

Appendix

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立法會衛生事務委員會主席麥國風先生：

建議委員會討論藥品註冊對醫藥專利的保護

本人日前收到香港科研製藥聯會及香港美國商會來信，要求修訂關於藥品註冊的條例，以保障醫藥產品的專利。本人建議將此列為事務委員會議程，日後加以討論。

隨函附上有關函件，以茲參考。

鄧致光 謹上
二零零四年五月五日



The Hong Kong Association of The Pharmaceutical Industry

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Thursday, 29th April, 2004

Ms. Maria Kaiser Ng
Senior Solicitor for Intellectual Property Department
Intellectual Property Department
24th Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong

Dear Ms Ng,

Re: Hong Kong Pharmaceutical Patent Linkage Protection

Over the past two months our members have been encouraged to see the government, and your bureau/department in particular, actively consider measures to improve patent protection in Hong Kong.

It is the current practice of the Pharmacy and Poisons Board to issue a Certificate of Drug/Product Registration authorizing products "to be marketed for use within Hong Kong" regardless of whether these products violate other legal provisions or rights and interests, and we appreciate your effort to push through regulatory reform by this summer to discontinue this practice and issue registration certificates that will simply state that the product is registered.

However, we still feel strongly that Hong Kong needs to introduce patent linkage to effectively protect innovation. Please see our attached position paper, of which some of you are probably already aware. We look forward to discussing this issue with you further.

With best regards.

Yours sincerely,

Dr. Anthony Chan
President 2004-06

Member: International Federation of Pharmaceutical Manufacturers Associations (IFPMA)

Associate Member: Federation of Medical Societies of Hong Kong

THE HONG KONG ASSOCIATION OF THE PHARMACEUTICAL INDUSTRY
AND
THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

Position Paper

"Pharmaceutical Patent linkage"

The Issue

The "patent linkage" issue relates to the lack of coordination between the system for pharmaceutical patent protection and pharmaceutical product registration.

Position

The HKSAR Government should take measures to safeguard pharmaceutical patent rights. Relevant Hong Kong laws should be amended to require applicants to declare the patent status of their products and to reject or revoke product registration applications based on a false declarations.

Rationale

In a typical case, an applicant for pharmaceutical product registration is fully aware that its product infringes a valid patent. There is currently no power under the relevant ordinance and subsidiary legislation to require the rejection of such an application or the revocation of a product registration on the grounds of patent infringement. Instead, the relevant right holder must seek remedy through litigation.

Other jurisdictions require the applicant for product registration to check a box declaring that its product does not infringe third parties' rights. The Mainland adopted this cost-effective, self-declaration approach when their pharmaceutical laws and regulations were recently reformed. Hong Kong cannot afford to lag behind the Mainland on this issue. "Patent linkages" have long been established in the US and Canada (EU does not have patent link, though its data exclusivity lasts longer than Hong Kong's, from 6 years in some countries to 10 in others). Singapore has not yet established the linkage, but it is expected to do so under the US/Singapore Free Trade Agreement.

It is the current practice of the Pharmacy and Poisons Board to issue a Certificate of Drug/Product Registration authorizing products "to be marketed for use within Hong Kong". Because a product registered in Hong Kong may violate other legal provisions or rights and interests, this practice should be discontinued and registration certificates should simply state that the product is registered.

Hong Kong has an obligation to safeguard intellectual property rights as a signatory to the *Paris Convention for the Protection of Industrial Property* and the *Agreement on the Trade Related Aspects of Intellectual Property Rights Protection*. Hong Kong's continued failure to safeguard pharmaceutical patent rights will discourage investment by international firms and will hamper local innovation. This obviously runs counter to Hong Kong government's stated desire to make Hong Kong the capital of traditional Chinese medicine.



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