

Legislative Council
Subcommittee on Residential Care Homes (Persons with
Disabilities) Regulation and Residential Care Homes (Persons
with Disabilities) Ordinance (Commencement) Notice 2011

The Administration's Proposed Amendment to the
Residential Care Homes (Persons with Disabilities) Regulation

Purpose

In response to the comments of the Subcommittee on Residential Care Homes (Persons with Disabilities) Regulation and Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011 ("the Subcommittee") and the Legal Advisor of the Legislative Council, the Administration has agreed to amend section 5(4)(d) of the Residential Care Homes (Persons with Disabilities) Regulation ("the RCHD Regulation"). This paper sets out the proposed amendment for Members' consideration.

Proposed Amendment to Section 5(4)(d)

2. Upon commencement of the RCHD Regulation, health workers of residential care homes for the elderly ("RCHEs") and for persons with disabilities ("RCHDs") will be required to register under the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A) ("RCHE Regulation") and the RCHD Regulation separately. For those who would like to be qualified as both types of health workers, they have to register under both registers.

3. It is stipulated in both the RCHE Regulation and the RCHD Regulation that the registration of a health worker may be cancelled if the Director of Social Welfare ("DSW") is of the opinion that the registration was obtained by fraudulent means, or if DSW ceases to be satisfied that the person is qualified, competent and fit and proper to be registered as a health worker. For a health worker who was registered in both registers, if DSW, on the basis of the abovementioned reasons, cancels the health worker's registration in accordance with the RCHE Regulation, then that health worker's other registration under the RCHD Regulation will also be cancelled under section 5(4)(d) of the RCHD Regulation.

4. Section 5(4)(d) of the RCHD Regulation is formulated in view of the similarity of the qualifications and the duties between the health workers serving RCHEs and those serving RCHDs. If DSW decides to cancel a health worker's registration under the RCHE Regulation, we consider it necessary to cancel the health worker's registration under the RCHD Regulation in order to protect the well being of RCHD residents. Such arrangement fulfils the legislative intent of the Residential Care Homes (Persons with Disabilities) Ordinance and the RCHD Regulation which aim to improve the service quality of RCHDs and protect RCHD residents.

5. The Subcommittee considers it appropriate to amend section 5(4)(d) of the RCHD Regulation to allow a person who initiates cancellation of registration under the RCHE Regulation to have a choice to retain his or her registration as a RCHD health worker. The Administration has no objection to the proposal. The proposed amendment is set out at **Annex** for Members' perusal.

Advice Sought

6. Members are invited to comment on the proposed amendment to section 5(4)(d) of the RCHD Regulation.

Labour and Welfare Bureau
Social Welfare Department
October 2011

Original clause of the RCHD Regulation	RCHE Regulation	Proposed Amendment (Marked in red)
<p>5. Register of health workers</p> <p>(4) Subject to subsection (5), the Director must remove from the register the name of a person—</p> <p>(a) who dies;</p> <p>(b) who requests in writing that the person’s name be removed;</p> <p>(c) whose registration is cancelled under section 8; or</p> <p>(d) who is also registered as a health worker under the Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A) and whose name has been removed under section 5(4) of that Regulation.</p>	<p>5. Register of health workers</p> <p>(4) The Director shall remove from the register the name of a person-</p> <p>(a) who dies;</p> <p>(b) who requests in writing that his name be removed; or</p> <p>(c) whose registration is cancelled under section 8.</p>	<p>5. Register of health workers</p> <p>(4) Subject to subsection (5), the Director must remove from the register the name of a person—</p> <p>(a) who dies;</p> <p>(b) who requests in writing that the person’s name be removed;</p> <p>(c) whose registration is cancelled under section 8; or</p> <p>(d) who is also registered as a health worker under the Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A) and whose name has been removed under section 5(4) <u>(a) or (c)</u> of that Regulation.</p>