

立法會
Legislative Council

LC Paper No. CB(2)2044/10-11(04)

Ref : CB2/PL/MP

Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 June 2011**

**Recognition of sick leave certificates issued by
registered chiropractors as valid sick leave certificates**

Purpose

This paper provides background information on the recognition of sick leave certificates issued by registered chiropractors as valid sick leave certificates and highlights the concerns raised by Members on the issue of sick leave certificates.

Background

2. At present, not all statutorily registered medical professions are recognized for issuing sick leave certificates under labour-related laws. Only certificates issued by medical practitioners registered under the Medical Registration Ordinance (Cap. 161) or registered Chinese medicine practitioners are recognized for the purpose of granting sick leaves to employees.

Relevant questions raised by Members at Council meetings

3. The recognition of sick leave certificates issued by registered chiropractors as valid sick leave certificates has not been discussed by the Panel on Manpower per se. However, questions have been raised by Members on sick leave certificates issued by registered chiropractors at Council meetings.

4. At the Council meetings of 16 May 2007 and 9 July 2008, Members sought information on the criteria adopted by the Administration in determining the recognition of sick leave certificates issued by a certain medical profession and the authorities responsible for stipulating such criteria.

5. According to the Administration, in considering whether to recognize the sick leave certificates issued by a certain medical profession, it would assess the state of the regulatory framework of the concerned medical profession, make reference to the views of the employees, employers and the general public, and consider relevant experiences in other places and the feasibility of the proposal. As the proposal of recognizing sick leave certificates issued by chiropractors involved labour-related laws, the Economic Development and Labour Bureau, together with concerned bureaux and departments, including the Health, Welfare and Food Bureau, the Civil Service Bureau, the Department of Health and the Labour Department, had formed a Working Group ("the Working Group") in November 2005 to study the subject. Matters considered by the Working Group included the efficacy of the regulatory framework of chiropractors, the relevance of the professional training of chiropractors in medical functions performed under labour-related laws, overseas experiences in recognizing chiropractors under labour-related laws, community knowledge and acceptance of chiropractic practice, and any financial, economic and civil service implications.

6. Noting that the Employees' Compensation Ordinance (Cap. 282) specified that medical expenses should be payable by an employer for medical treatment given by medical professionals such as registered chiropractors in respect of the injury sustained by his employees at work, members queried why sick leave certificates issued by registered chiropractors were not recognized.

7. According to the Administration, not all statutorily registered medical professions were recognized for issuing sick leave certificates under labour-related legislation. The provision in the Employees' Compensation Ordinance permitting an injured employee to reimburse from his employer medical expenses for treatment of work injury by registered chiropractors was enacted in 1995. Of the legislative amendments made at that time, the kinds of reimbursable medical expenses incurred by injured employees were expanded to cover treatment given by physiotherapists, occupational therapists and chiropractors. The objective of the amendment was to expand the scope of reimbursable medical expenses for injured employees. It did not include the recognition of sick leave certificates issued by different categories of medical professions. Reimbursement of medical expenses was only concerned with the treatment given by the medical profession, whereas the issue of sick leave certificates under labour-related laws involved further judgment by the concerned medical professional on whether the sickness of the employee was to such an extent that he needed to take a rest and was temporarily unfit for work.

8. Members were concerned whether the Administration would amend the legislation to recognize sick leave certificates issued by registered chiropractors.

9. According to the Administration, Hong Kong was the first place in Asia to register chiropractors statutorily. There were significant variations in different countries in the recognition of chiropractors. Such variations in rules and practices were dependant on the circumstances of individual places, involving factors like cultural background and medical systems.

Results of study on the proposal of recognizing sick leave certificates issued by chiropractors

10. According to information provided by the Administration to the Panel on Manpower on the decisions of the Labour Advisory Board ("LAB") on 9 May 2011, the Working Group had thoroughly considered the circumstances and chiropractic practices in Hong Kong, various surveys on chiropractic treatment, experiences of other jurisdictions and views of stakeholders. After consideration, the Working Group had not recommended recognizing the medical certificates issued by chiropractors under labour-related laws. The major considerations taken into account by the Working Group included -

- (a) there were significant differences in the approaches adopted by different countries in dealing with chiropractic practices under labour-related laws and social security systems. The Working Group considered it necessary to adopt a more prudent approach in considering the issue;
- (b) even though injured employees could claim reimbursement for the cost of chiropractic treatment under the current Employees' Compensation Ordinance (Cap. 282), only a small number of them had sought such treatment, reflecting that the public had limited knowledge of chiropractors;
- (c) as all chiropractors were engaged in private practice and there was a lack of tertiary institutions providing chiropractic training in Hong Kong, it would be difficult to identify neutral and independent authority to offer medical opinion or arbitrate disputes, if the medical certificates issued by a chiropractor were opposed to or challenged by the employer or insurer; and
- (d) if the medical certificates of an additional type of healthcare practitioners were covered under labour-related laws, employers and insurers would have to take on new legal obligations. Their understanding of the scope of chiropractic treatment, the diseases that chiropractors could treat, and the chiropractors' criteria on the

issuance of medical certificates should first be enhanced, in order to avoid unnecessary disputes relating to the issuance of medical certificates.

11. The Administration advised that while agreeing with the recommendations of the Working Group, it had noted a continual increase in the number of chiropractors, and that the chiropractic sector was actively considering drawing up guidelines for the issuance of medical certificates, improving its registration system and specifically requiring individual chiropractors to keep medical records of their patients. In the light of the above, the Administration had, in briefing LAB on the findings of the Working Group, proposed to commission the Census and Statistics Department to conduct a comprehensive survey, so as to gain a more updated and thorough understanding of the community's knowledge and utilization of chiropractic treatment. According to the Administration, LAB agreed at its meeting on 9 May 2011 to the recommendations of the Working Group and the way forward proposed by the Administration.

Relevant papers

12. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
13 June 2011

Appendix

Relevant papers on recognition of sick leave certificates issued by registered chiropractors as valid sick leave certificates

Committee	Date of meeting	Paper
Legislative Council	16.5.2007	Official Record of Proceedings (Question 2)
Legislative Council	9.7.2008	Official Record of Proceedings (Question 7)
Panel on Manpower	--	CB(2)1867/10-11(01)

Council Business Division 2
Legislative Council Secretariat
13 June 2011