



**COMMISSIONER FOR LABOUR**

勞工處處長箋札

Your reference 來函編號 :

Our reference 本處檔案編號 : ILD/CF 3/602/2011

Tel. number 電話號碼 : 2852 3688

Fax number 傳真機號碼 : 3101 1066

20 May 2011

The Hon. Lee Cheuk Yan  
Chairman  
Panel on Manpower  
Legislative Council  
(c/o Secretary, Panel on Manpower  
Legislative Council)  
8 Jackson Road  
Hong Kong

Dear Chairman,

**Decisions taken by the Labour Advisory Board**

-----  
I attach for information a summary of the decisions taken by the Labour Advisory Board at its meeting held on 9 May 2011.

Yours sincerely,

(Cheuk Wing Hing)  
Commissioner for Labour /  
Chairman, Labour Advisory Board

## **Decisions taken by the Labour Advisory Board at its meeting on 9 May 2011**

### **Measures adopted by the Labour Department in handling False Self-Employment**

Members agreed that the problem that needed to be tackled at present was how to deter unscrupulous employers from deliberately evading their statutory responsibilities under the pretext of self-employment. Some members pointed out that to introduce legislation for the purpose of curbing false self-employment might stifle the type of business opportunities where both parties wish to forge through entering into a self-employment contract. As the Labour Department (LD) has already adopted a three-pronged approach to tackle false self-employment, in particular through strengthened publicity and law enforcement efforts, members agreed that it would not be necessary at this stage to define “self-employment” or “false self-employment” through legislation.

In view of the possible consequences that the implementation of the Minimum Wage Ordinance may bring, members took the view that LD should help employers and employees distinguish the differences between “(genuine) self-employment” and “false self-employment”, their pros and cons as well as the respective legal rights and responsibilities involved through stepping up promotional, publicity and educational efforts. The Labour Advisory Board also advised the Government to continue closely monitoring and rigorously tackling the situation of false self-employment, and to take targeted actions to deter those employers who attempt to exploit the statutory rights and benefits of employees through the use of self-employment contracts.

## **Findings of the Inter-Bureaux/Departmental Working Group on the Study on Recognition of Medical Certificates Issued by Chiropractors under Labour Legislation**

In response to the request of the Chiropractic Doctors' Association of Hong Kong and the Hong Kong Chiropractors' Association for recognising the medical certificates issued by chiropractors under labour legislation, an Inter-bureaux/departmental Working Group (the Working Group) was set up to conduct an in-depth study on the subject. The Working Group comprised representatives of the Labour Department, the Civil Service Bureau, the Food and Health Bureau and the Department of Health.

Having thoroughly considered the chiropractic practice in Hong Kong, various surveys on chiropractic treatment, experiences of other jurisdictions and views of stakeholders, the Working Group does not recommend recognising the medical certificates issued by chiropractors under labour legislation. The major considerations include:

- There are significant differences in the approaches adopted by different countries in dealing with chiropractic practices under labour legislation and social security systems. The Working Group therefore considers it necessary to adopt a more prudent approach in considering this issue;
- Even though injured employees can claim reimbursement for the cost of chiropractic treatment under the current Employees' Compensation Ordinance, only a small number of them have sought such treatment, reflecting that the public have limited knowledge of chiropractors;
- As all chiropractors are engaged in private practice and there is 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 are opposed to or challenged by the employer or insurer; and
- If the medical certificates of an additional type of healthcare practitioners are covered under labour legislation, employers and insurers will have to take on new legal obligations. Therefore, their understanding of the scope of chiropractic treatment, the diseases that chiropractors can 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.

The Administration agrees with the recommendations made by the Working Group. However, it also notes that there is a continual increase in the number of chiropractors and the chiropractic sector has put in place a voluntary Continuing Professional Development scheme. It is also 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 view of the above, the Administration proposes to commission the Census & Statistics Department to conduct a comprehensive survey, so as to gain a more updated and thorough understanding of the community's knowledge and utilisation of chiropractic treatment. At the same time, the Administration will continue to communicate with the stakeholders and closely monitor the latest development of chiropractic in Hong Kong and other regions.

The Labour Advisory Board agreed to the recommendations of the Working Group and the Administration's proposal.