



會 學 醫 港 香  
The Hong Kong Medical Association

FOUNDED IN 1920·INCORPORATED IN 1960 AS A COMPANY LIMITED BY GUARANTEE  
MEMBER OF WORLD MEDICAL ASSOCIATION AND CONFEDERATION OF MEDICAL ASSOCIATIONS IN ASIA & OCEANIA

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香港軒尼詩道十五樓  
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**Legislative Council Panel on Health Services**  
**Special meeting on 23 December 2013**  
**Recommendations of the Working Group on Differentiation between**  
**Medical Procedures and Beauty Services**

**Views of the Hong Kong Medical Association**

**Useless Recommendations**

The “recommendations” adopted by the Working Group on differentiation between Medical Procedures and Beauty Services include:

- Cosmetic procedures that involve injections should be performed by registered medical practitioners.
- Procedures that involve mechanical/chemical exfoliation of the skin below the epidermis should be performed by registered medical practitioners.
- Traditional body tattooing and piercing should be exempted from being considered as a “medical procedure”, but special care should be taken for those performed on body parts which are of high risk of complications (e.g. near the eyes, tongue etc.). All practitioners should be well-trained and adopt infection control measures when performing the procedures. Practitioners should ensure that consumers are made aware of the inherent risks involved and allowed to make informed decisions before undergoing the procedure.
- Hyperbaric oxygen therapy should not be performed as a form of beauty procedure. In view of its risks of complications, it should be performed by registered medical practitioners on patients with clinical indications.
- Dental bleaching may lead to complications, especially if performed inappropriately or performed on inappropriate clients, such as those suffering from pre-existing dental conditions. The procedure should be performed by registered dentists.
- The Working Group supports the Administration’s plan to introduce a new medical device ordinance to deal with the issue of control over the use of selected high-risk medical devices.
- The Working Group recommends the setting up of an expert panel under the future medical device ordinance to advice on the risk and appropriate controls over new cosmetic procedures based on innovative technology.

We consider these recommendations useless if the government is to promulgate the above recommendations to the beauty industry and the medical profession and to call for self-regulation only.

To ask the beauticians to stay within their own sphere would be difficult, if not impossible, without legal backing. The only statutory control would be through the regulation of the use of medical device, yet to be introduced.



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For registered medical practitioners, they are already regulated by the Medical Registration Ordinance, Cap. 161 and the Code of Professional Conduct of the Medical Council of Hong Kong.

### **We are disappointed**

While the registered medical and dental practitioners are respectively regulated under the Medical Registration Ordinance (Cap. 161) and the Dentists Registration Ordinance (Cap. 156), the beauticians, the businessmen that run the beauty parlours and businesses providing medical and related services are not.

We are disappointed because the Working Group failed to categorically differentiate between medical procedures and non-medical procedures such as beauty services, and recommend measures to prevent the unqualified and the unregulated to perform risky procedures.

What's more - while the registered medical and dental practitioners cannot advertise their services, the beauty parlours and health maintenance organizations can do all kinds of business promotion for procedures or therapies including those not scientifically-proven.

We are disappointed with the Government because of its unwillingness to regulate and its inability to prosecute these businesses and persons behind even when things went wrong, resulting in the unqualified and unregulated pointing fingers to those qualified and regulated that the latter were protected the law even if something went wrong. The fact is that it has been more than a year after the DR incident. We all know from the media reports that at least 2 doctors were allegedly involved in this tragedy, one was said to be directly involved by giving the intravenous injections while the other was reported to be the boss behind the scene. Whatever the truth was, nothing was disclosed so far by the police. No prosecution was made and nobody was held responsible, yet. As a result, the Medical Council could not start any inquiry when an alleged criminal offence is still under investigation.



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## **A clear definition of the term “Medical Treatment” is required**

The lack of a clear definition of the term “Medical Treatment” in Section 28 of the Medical Registration Ordinance, Cap. 161 makes it difficult to prosecute people breaching the law and attracts non-medical people to provide “medical treatment”.

The Recommendations issued by the Steering Committee were merely administrative guidelines to the law enforcement agencies, i.e. the police and the Department of Health, on the principles for taking legal action against the beauty industry. If they find out some non-medical people are performing these procedures in the beauty parlours, they will proceed with prosecution according to the provisions of Section 28 of the Medical Registration Ordinance (Cap. 161) “Unlawful use of title etc. and practice without registration”. But without a clear-cut definition of the term “medical treatment”, these recommendations would not be binding on the court of law. The judge would have to decide on a case-by-case basis to decide whether the person under prosecution is actually providing “medical treatment”. This is the usual situation in common law jurisdictions when there is no statutory law against a certain crime, case would have to be decided according to case law.

## **Regulation of businesses and practices that affect health & safety**

To safeguard the health of the people of Hong Kong is the motto of the Hong Kong Medical Association. We would like to take this opportunity to call for proper regulation of all businesses and practices which affect the people’s health and safety, including the health maintenance organizations and beauty parlours.

23 December 2013