

**《2016年醫生註冊(修訂)條例草案》委員會  
政府就二零一六年四月十九日會議的跟進事項  
所作的回應**

**選任委員與委任委員的比例  
以及  
四名新增業外委員的組成建議**

本文件載述政府就二零一六年四月十九日會議的跟進事項，特別是對香港醫務委員會(“醫委會”)選任委員與委任委員的比例以及四名新增業外委員的組成建議所作的回應。

**醫委會選任委員與委任委員的比例**

**《條例草案》的涵蓋範圍**

2. 在二零一六年二月二十四日發出的立法會參考資料摘要(檔案編號：FHCR1/F/3261/92)載述，《條例草案》其中一個目的是增加醫委會的業外人士參與，藉以提高其問責性、透明度和公信力。

3. 現時醫委會由28名委員組成，其中24人為註冊醫生，四人為業外人士。如業外委員由四人增至八人，業外委員佔委員總數的百分比則會由14%升至25%。此舉可加強醫委會的問責性、透明度和公信力，並有助醫委會引入新思維和擴闊視野。

4. 我們就建議諮詢相關持份者(包括醫生團體、病人組織和立法會議員)，他們支持增加四名業外委員的建議。可是，多個醫生團體要求在增加四名業外委員的同時，選任委員與委任委員的比例必須維持於現時的1:1比例，以維護醫生的專業自主。現時醫委會28名委員中，14名為選任委員<sup>1</sup>，另外14名為委任委員<sup>2</sup>。增加由行政長官委任的四名業外委員後，醫委會將有18名

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<sup>1</sup> 七人由正式註冊和有限度註冊的醫生選出，另有七人由香港醫學會提名並由該會的會董會成員選出。

<sup>2</sup> 十名醫生委員由衛生署、香港大學、香港中文大學、醫院管理局及香港醫學專科學院各提名兩人，並由行政長官委任；另有四名業外人士由行政長官委任。

委任委員，而選任委員的數目則維持在 14 名，選任委員與委任委員的比例因而會有所改變。

5. 政府認為，醫委會委員繼續由醫生佔大多數，以維護醫生的專業自主非常重要。雖然政府並不接受維持選任委員與委任委員的相等比例乃保持專業自主的前設，但我們明白一些醫生團體的關注，因此我們願意因應關注就《條例草案》作出修訂，使醫委會選任委員與委任委員的比例維持 1:1。

6. 政府在諮詢有關持份者(包括醫生團體、病人組織和立法會議員)後，建議提出一項委員會審議階段修正案，把現時兩名由香港醫學專科學院(“專科學院”)提名的委任委員，改為由專科學院院務委員會選出，以維持醫委會選任委員與委任委員的相等比例。

7. 現扼要複述，《條例草案》的詳題訂明，《條例草案》旨在一

“修訂《醫生註冊條例》，以增加醫務委員會及其轄下委員會中業外人士的人數；使醫務委員會能夠設立多於一個初步偵訊委員會；延長有限度註冊的醫生的註冊有效期；改變紀律研訊的會議法定人數和增加審裁顧問的人數；使律師或大律師能獲委任，就研訊執行秘書的職責；增加醫務委員會法律顧問的人數；以及就附帶事宜訂定條文，並作出相關技術性修訂。”

8. 我們認為，現時擬議的委員會審議階段修正案(“擬議修正案”)是因建議增加四名委任業外委員而附帶作出的修訂，因此屬於《條例草案》的範圍。有關醫委會選任委員與委任委員的比例應維持相等的議題，已在早前審議《1995 年醫生註冊(修訂)(第 2 號)條例草案》時提出。《1995 年醫生註冊(修訂)(第 2 號)條例草案》其中一項修訂包括把政府委任的醫委會業外委員由一名增加至兩名。當時審議《1995 年醫生註冊(修訂)(第 2 號)條例草案》的法案委員會建議把業外委員的人數增至四名以應付醫委會的工作量，並因應該建議，再提出相應增加選任委員的人數，以維持選任委員與委任委員的相等比例。政府同意作出這兩項修訂，而該兩項擬議修正案獲當時的立法會通過。

9. 就是次立法建議而言，《條例草案》的其中一個目的是增加醫委會業外委員的人數，一如一九九五年的立法建議。正如上文第4段所述，增加業外委員人數會影響主體法例中現時選任委員與委任委員的比例。現時的擬議修正案是因增加委任業外委員而附帶作出的修訂，以回復現時《醫生註冊條例》第3(2)條中所反映選任委員與委任委員1:1的比例。基於上述的考慮，我們認為擬議修正案屬《條例草案》所涵蓋的範圍，即就增加委任業外委員的附帶事宜訂定條文。

就現時兩名由專科學院提名的委任委員改為由專科學院選出的選任委員的建議作進一步的修訂

10. 現時，兩名由專科學院提名的醫委會委員是經專科學院院務委員會以選舉方式產生。一如上文第6段所述，政府原先的建議是把現時兩名由專科學院提名的委任委員，改為由專科學院院務委員會選出，有關安排與《醫生註冊條例》(第161章)第3(2)(i)條所訂的七名香港醫學會選任委員的安排相似<sup>3</sup>。

11. 專科學院是根據《香港醫學專科學院條例》(第419章)成立的獨立法定組織，按專業自主的原則運作。專科學院具備法定權力，組織、監察及評核所有醫學專科訓練，並頒授有關資格，同時亦須監察提供延續醫學教育。專科學院院務委員會有26名委員，包括6名由院務委員會提名和選出的委員(一名主席、兩名副主席、名譽秘書、名譽司庫和編輯)、15名分科學院院長(一般而言由學院成員選出<sup>4</sup>)及5名由專科學院全體院士提名和選出的委員。專科學院轄下設有15間分科學院，共有約7 400名院士。

12. 由於專科學院的每間分科學院的院士人數不同，由少於200人至1 600人不等，專科學院認為如由全體院士選出醫委會的代表會對院士人數較少的分科學院不公平。專科學院支持政府的建議，即把現時兩名由專科學院提名的委任委員，改為由專科學院選出。

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<sup>3</sup> 《醫生註冊條例》(第161章)第(3)(2)(i)條—

“7名註冊醫生，他們須為香港醫學會會員，並按照與該會根據本段委出職位有關的規例或程序獲提名，且是按照該等規例或程序由該會的會董會成員選出的。”

<sup>4</sup> 分科學院院長是根據個別分科學院的組織章程大綱選出。大部份分科學院院長由學院所有成員提名及選出。有部份分科學院院長則由學院委員提名及選出，而該些學院委員是由全體會員提名及選出。

13. 考慮到專業及學術自主的原則以及專科學院是按照《香港醫學專科學院條例》(第419章)設立，政府建議不在法例中訂明有關的提名及選舉程序，讓專科學院按照其運作規則及規例，自行決定如何選出該兩名註冊醫生擔任醫委會委員。

### **香港醫學會(“醫學會”)就醫委會 7 個選任席位而採用的提名和選舉程序，以及醫學會會董會的組成和選舉機制**

14. 醫學會的回覆載於附件。

### **四名新增業外委員的組成建議**

15. 我們建議，四名新增業外委員中應有三名來自代表病人權益的界別，以及一名來自代表消費者權益的界別。

16. 就我們所知，全港有逾 200 個病人團體或病人支援組織。這些組織的規模不一(會員人數由不足 100 人至 40 000 人不等)，結構也各異(有些是根據《社團條例》(第 151 章)成立的社團，有些是根據《公司條例》(第 32 章)成立為法團的公司，有些則是為了進行推廣及／或代表病人權益的活動而成立的組織但並非法人)。這些病人團體或病人支援組織各有不同的服務對象，包括病人和病人親屬。

17. 政府曾就提名醫委會委員的詳細安排諮詢多個與病人有關的主要組織。與會代表指出法例不須明確界定病人團體或病人支援組織，他們認為較理想及可行的做法是法例須具足夠彈性，以盡量涵蓋與病人有關的組織。他們又建議，有關法例不應訂明詳細安排，讓與病人有關的組織商議最佳的做法。

18. 政府建議，讓與病人有關的組織按其同意的指引選出代表，然後交由行政長官委任。至於消費者權益方面，我們認為消費者委員會可選出一位代表消費者權益的人士，然後交由行政長官委任。

**食物及衛生局**  
**二零一六年四月**



# 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

Duke of Windsor Social Service Building, 5th Floor, 15 Hennessy Road, Hong Kong  
E-mail: hkma@hkma.org Home Page: http://www.hkma.org  
Tel. No.: 2527 8285 (6 lines) Fax: (852) 2865 0943

香港軒尼詩道十五號  
溫莎公爵大廈五樓

2015 - 2016

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Messrs. Li, Tang, Chen & Co.

李湯陳會計師事務所

### CHIEF EXECUTIVE 行政總監

Ms. Jovi W.S. LAM

林偉珊女士

Via Fax & Email

21 April 2016

Secretary

The Medical Council of Hong Kong

4/F HKAM Jockey Club Building

99 Wong Chuk Hang Road

Hong Kong

[Attn: Ms. Karen WU]

Dear Ms. WU,

### **Bills Committee on Medical Registration (Amendment) Bill 2016**

We refer to your letter dated 21 April 2016 requesting information on the nomination and election procedures adopted by The Hong Kong Medical Association (HKMA) for the filling of the 7 elected seats of the Medical Council of Hong Kong (MCHK), as well as the composition of and election of and election mechanism for the Council of Medical Association.

### Nomination and election procedures adopted by HKMA for filling the 7 elected seats of the MCHK

In accordance with S3(2)(i) of the Medical Registration Ordinance (MRO) Cap. 161, the Council of the HKMA shall elect registered medical practitioners who are members of the HKMA to fill the 7 seats in MCHK.

Under the Byelaw VA of the HKMA for "Election of Representatives to the Medical Council of Hong Kong", a candidate for election as the HKMA's representative in the MCHK must be either a Regular or Life Member of the Association and must be proposed by one and seconded by another Regular/Life Members of the Association.

At the time of nomination, both the candidate and his/her proposer and seconder should have paid up all moneys due from them to the HKMA. A member is disqualified from being nominated for election if he/she is nominated as a candidate for election to fill a vacancy in an office under section 3(2)(j) of the MRO, irrespective of whether he/she is subsequently elected to that office under that section.





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Prescribed forms for nomination shall be sent to the HKMA members at their correspondence addresses via postage 6 weeks before election by the HKMA Council. Nomination on the prescribed form must be sent to the HKMA Honorary Secretary on or before a prescribed time.

The HKMA Honorary Secretary shall circulate the list of candidates for election to all members of the HKMA Council at least 1 week before an appointed time when the election, in the form of secret ballot, is to be held. Every member of the Council shall be entitled to cast one vote in person at the time and place as specified by the HKMA Honorary Secretary in favour of each of any number of candidates not exceeding the number of vacancies, to be filled by the Association, in MCHK. The candidate with the largest number of votes shall serve on MCHK for the longest term of office. In the event of an equality of votes in the election, the President, or in his absence, the Chairman of the meeting, shall be entitled to a second/casting vote.

A member so elected shall hold office for 3 years or a shorter term depending on circumstances as stipulated in S. 3(3A), S. 3(3B) and S. 3(3C) of the MRO Cap. 161.

A point to note is that non-council member of the HKMA may opt to stand for election for a seat in MCHK via the above procedures and process. A recent example is in 2006-2008 when Dr. Shirley Yip, a non-council member, was elected by the HKMA Council to become MCHK member.

### Composition of and election of and election mechanism for the Council of Hong Kong Medical Association

In accordance with S22 and S24 of our Memorandum and Articles of Association, the Council of HKMA consists of 28 members in total, including:

- The President of the Association, who shall ex-officio be a member of the HKMA Council.
- Two Vice-Presidents of the Association, who shall ex-officio be members of the HKMA Council.
- One Honorary Secretary of the Association, who shall ex-officio be a member of the HKMA Council.
- The Honorary Treasurer of the Association, who shall ex-officio





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溫莎公爵大廈五樓

2015 - 2016

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be a member of the HKMA Council.

- v) The retiring President of the outgoing Council, who shall ex-officio be a member of the HKMA Council without election.
- vi) Twenty-one members, who shall be elected by the Association in general meeting from among those members of the Association who shall have been members of the Association for not less than two years.
- vii) One Legislative Councillor by the Medical Functional Constituency on the appointment by the HKMA Council.

In accordance with S28, S28(a), S28(b), S28(c) and S28(d) of our Memorandum & Articles of Association, a candidate for election as the President, Vice-President, Honorary Treasurer or Council Member must be either a Regular Member or a Life Member of the Association and must be proposed by one and seconded by another Regular Member or Life Member of the Association, and such proposal must be sent to the Honorary Secretary not less than 6 weeks before the annual general meeting, provided that the HKMA Council may nominate one or more candidates not less than 5 weeks before the annual general meeting, if the number of candidates received by the Honorary Secretary is less than the number of vacancies in various posts in the HKMA Council. The Honorary Secretary shall circulate to each Regular Member or Life Member of the Association not less than 4 weeks before the annual general meeting a list of candidates for election and a voting paper on which shall be specified the latest date for returning it to the Honorary Secretary.

Every Regular Member, Fraternity Member or Life Member shall be entitled to give one vote in favour of each of any number of candidates not exceeding the number of vacancies in various posts in the HKMA Council. No other voting paper, except the one sent out by the Honorary Secretary, and no voting paper received by the Honorary Secretary after midnight on that date shall be counted as valid.

Any voting paper adjudged by the Auditor (or in his absence a person appointed by the Auditor) to be improperly or incorrectly, filled in shall be declared to be invalid.

The votes shall be counted by the Auditor and the result reported to the Annual General Meeting.



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In the event of an equality of votes in the election, the Annual General Meeting shall decide by a ballot of the Regular, Fraternity and Life Members present and voting as to which of those with an equal number of votes are to be deemed as elected to the Council.

To date, above 9,200 HKMA members are Regular or Life Member. Any person registered under S.14 of MRO Cap. 161 may apply to become Regular or Life Member in pursuant of our Memorandum and Articles of Association. Subject to terms and conditions mentioned above, these 9,200 members, generally speaking, may stand for election as the HKMA representatives to MCHK, and/or the HKMA President, Vice presidents, Honorary Treasurer or Council members, if they so wish. Election of the HKMA Council members is merit-based, signifying our main focus to maintain credibility and impartiality of the HKMA council.

Yours sincerely,

Dr. SHIH Tai Cho, Louis  
President

STCL/JL/ah

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Ms. Jovi W.S. LAM

林偉珊女士

22 April 2016

### Secretary

The Medical Council of Hong Kong  
4/F HKAM Jockey Club Building  
99 Wong Chuk Hang Road  
Hong Kong  
[Attn: Ms. Fionne TSE]

Dear Ms. TSE,

### Bills Committee on Medical Registration (Amendment) Bill 2016

We refer to your letter dated 22 April 2016 requesting the number of candidates for election as members of Medical Council in the last three years.

Year of election	No. of vacancies in MCHK to be filled	No. of candidates
2005	3	4
2013	2	2
2014	3	3
2015	2	2

As mentioned in my previous letter sent to the Medical Council earlier today, non-council member of the HKMA may opt to stand for election for a seat in MCHK via our election procedures and process. In 2005, there were 4 candidates stood for Medical Council election. As a result, Dr. Shirley Yip, a non-council member, was elected by the HKMA Council to become Medical Council member.

Yours sincerely,

Dr. SHIH Tai Cho, Louis  
President

STCL/JL/cw

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Ms. Jovi W.S. LAM

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**Urgent By Fax and email**

25 April 2016

Secretary

The Medical Council of Hong Kong

4/F HKAM Jockey Club Building

99 Wong Chuk Hang Road

Hong Kong

[Attn: Ms. Fionne TSE]

Dear Ms. TSE,

**Bills Committee on Medical Registration (Amendment) Bill 2016**

We refer to your other letter also dated 22 April 2016 requesting the number of candidates for election as members of Medical Council from 2006 to 2012.

Hereinbelow is a table on the information requested:

<u>Year of election</u>	<u>No. of vacancies in MCHK to be filled</u>	<u>No. of candidates</u>
2006	2	2
2007	2	2
2008	3	3
2009	2	2
2010	2	2
2011	3	3
2012	2	2

As mentioned in my previous letters dated 21 April 2016 and 22 April 2016, the HKMA do **NOT DISCRIMINATE** any willing registered doctor from joining the HKMA and participating in the election process, irrespective of their specialist status or employment. The nominees and successful candidates need **NOT** to be a council member.

For easy reference, I also enclose the two abovesaid letters with this reply. As I understand MCHK raised these questions upon the request of Food and Health Bureau for the purpose of the Legislative Council Bills





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Committee Meeting scheduled on 25 April 2016, I copy all the letters to Food and Health Bureau and Bills Committee for perusal.

Thank you for your attention.

Yours sincerely,

Dr. SHIH Tai Cho, Louis  
President

c.c. Bills Committee on Medical Registration (Amendment) Bill 2016  
Permanent Secretary for Food and Health (Fax: 2523 2040)

STCL/jl

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