

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

**Government's response to the follow-up actions arising from the  
discussion at the meeting on 19 April 2016**

**Ratio of Elected and Appointed Members  
and  
Proposed Composition of the Four Additional Lay Members**

This note provides the Government's response to the follow-up actions, in particular on the ratio of elected and appointed members in the Medical Council of Hong Kong ("MCHK") and proposed composition of the four additional lay members, arising from the discussion at the meeting on 19 April 2016.

**Ratio of Elected and Appointed Members in MCHK**

**Scope of the Bill**

2. As set out in the Legislative Council ("LegCo") Brief issued on 24 February 2016 (ref.: FHCR1/F/3261/92), one of the purposes of the Bill is to increase lay participation of MCHK so as to enhance its public accountability, transparency and credibility.

3. MCHK currently has a total of 28 members, with 24 members being registered medical practitioners and four lay members. After increasing the number of lay members from four to eight, lay membership will increase from 14% to 25%. This will help enhance the public accountability, transparency and credibility of MCHK and bring in fresh views and offer wider perspectives to MCHK.

4. We have consulted relevant stakeholders including doctors' associations, patient groups and LegCo members on the proposal and they support the proposed addition of four lay members. Nevertheless, many doctors' associations demand that the current ratio between elected and appointed members at 1:1 should be maintained after the addition of

four lay members in order to preserve the professional autonomy of medical profession. Currently, among the 28 members of MCHK, 14 are elected members<sup>1</sup> while another 14 are appointed members<sup>2</sup>. After the addition of four lay members appointed by the Chief Executive (“CE”), there will be 18 appointed members, while the number of elected members remains unchanged at 14. The ratio of elected and appointed members will thus be changed.

5. The Government considers that it is of paramount importance to continue to uphold professional autonomy of the medical profession by maintaining a majority of doctors in MCHK. While the Government does not accept that maintaining an equal ratio of elected and appointed members is a pre-requisite for upholding professional autonomy, we are cognizant of the concern of some of the doctors’ associations and are prepared to address the concern by proposing amendment to the Bill to maintain the number of elected and appointed members in MCHK at 1:1.

6. After consultation with relevant stakeholders including doctors’ associations, patient groups and LegCo Members, the Government proposes to introduce a committee stage amendment (“CSA”) to convert the two existing appointed members nominated by the Hong Kong Academy of Medicine (“HKAM”) to two members to be elected by the Council of HKAM, in order to maintain an equal ratio of elected and appointed members in MCHK.

7. To recap, the Long Title of the Bill provides that the Bill is to -

*“Amend the Medical Registration Ordinance to increase the number of lay persons on the Medical Council and its committees; to enable the Council to establish more than one Preliminary Investigation Committee; to extend the term of registration of medical practitioners with limited registration; to change the quorum for disciplinary*

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<sup>1</sup> Seven are elected by registered medical practitioners with full and limited registration, and seven are nominated by the Hong Kong Medical Association (“HKMA”) and elected by the Council members of HKMA

<sup>2</sup> Ten medical practitioner members, including two each are nominated by Department of Health, the University of Hong Kong, The Chinese University of Hong Kong, Hospital Authority and Hong Kong Academy of Medicine, and appointed by CE; and four lay members are appointed by CE

*inquiries and increase the number of assessors; to enable counsel or solicitor to be appointed to carry out the Secretary's duties in respect of inquiries; to increase the number of legal advisers to the Council; and to provide for incidental matters and to make related technical amendments."*

8. We are of the view that the proposed CSA is within the scope of the Bill as it is incidental to the proposed addition of four appointed lay members. The issue of equal ratio of elected and appointed members in MCHK had been previously raised in the scrutiny of the Medical Registration (Amendment) (No. 2) Bill 1995, which sought to, among others, increase the number of lay members to be appointed by the Government from one to two. The then Bills Committee scrutinizing the 1995 Amendment Bill proposed to increase the number of lay members to four in order to cope with the workload of MCHK, and further proposed to make a corresponding increase to the number of elected members in order to maintain the equal ratio of elected and appointed members in MCHK. The Government agreed to make both changes. The proposed CSAs effecting these changes were passed by the then LegCo.

9. In the current legislative exercise, one of the purposes of the Bill is to increase lay participation in MCHK, same as that in the 1995 exercise. As explained in paragraph 4 above, the addition of lay members will affect the existing ratio of elected and appointed members in the principal Ordinance. The proposed CSA, which is incidental to the proposed increase in lay members, will restore the ratio of elected and appointed members to 1:1 as currently reflected in section 3(2) of the Medical Registration Ordinance (Cap. 161). Having regard to the above considerations, we are of the view that the proposed CSA falls within the scope of the Bill i.e. to provide for matter incidental to increasing the number of lay members on MCHK.

Further refinement to the proposal on converting two existing appointed members nominated by HKAM to elected members by HKAM

10. Currently, the two MCHK members from HKAM are nominated on the basis of election by the Council of HKAM. As mentioned in paragraph 6 above, the Government's original proposal is to convert the two existing appointed members nominated by HKAM to two members to be elected by the Council of HKAM, following similar arrangement for the seven elected members of the Hong Kong Medical Association as stipulated in section 3(2)(i) of the Medical Registration Ordinance (Cap. 161)<sup>3</sup>.

11. Operating under the principle of professional autonomy, HKAM is a statutory body established under the Hong Kong Academy of Medicine Ordinance (Cap. 419). It has statutory power to organise, monitor, assess and accredit all medical specialist training and to oversee the provision of continuing medical education. The Council of HKAM currently has 26 members, consisting of six Officers (a President, two Vice-Presidents, Honorary Secretary, Honorary Treasurer, and Editor) who are nominated and elected by Council members, 15 College Presidents who are elected by members of the Colleges in general<sup>4</sup>, and five elected Council members who are nominated and elected by all Fellows. HKAM has 15 Colleges and around 7 400 Fellows.

12. As the number of Fellows in each College of HKAM varies from 1 600 to less than 200, HKAM considers that an election from all Fellows for representation at MCHK is unfair to those Colleges with fewer Fellows. HKAM supports the Government's proposal to convert the two existing appointed members nominated by HKAM to two members to be elected by HKAM.

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<sup>3</sup> Section 3(2)(i) of the Medical Registration Ordinance (Cap. 161) -

“7 registered medical practitioners who are members of the Hong Kong Medical Association and nominated in accordance with the regulations or procedures of the Association relating to the filling of offices under this paragraph and elected by the Council members of the Association in accordance with those regulations or procedures”.

<sup>4</sup> College Presidents are elected in accordance with the Memorandum of Association of each College. For most Colleges, the College President is nominated and elected by all College members. For a few Colleges, the College President is nominated and elected by the College Councillors who are nominated and elected by all College members.

13. Having regard to the principle of professional and academic autonomy and the fact that HKAM is governed by the Hong Kong Academy of Medicine Ordinance (Cap. 419), the Government proposes that we should not specify the nomination and election procedures in the legislation and should defer to HKAM as to how it elects two registered medical practitioners, having regard to the rules and regulations governing its operation, to be the Council members of MCHK.

**Nomination and election procedures adopted by the Hong Kong of Medical Association (“HKMA”) for the seven elected members of MCHK, as well as the composition of and election mechanism for the Council of HKMA**

14. HKMA’s reply is at [Annex](#).

**Proposed composition of the four additional lay members**

15. Among the four additional lay members, we propose that **three** members should come from the sector representing patients’ interests and **one** from that representing consumers’ interests.

16. To the best of our knowledge, there are more than 200 bodies which are established as patient groups or patient support groups. It is noted that these bodies are of different scale (with membership ranges from 40 000 to less than 100), different structure (some are societies established under the Societies Ordinance (Cap 151); some are companies incorporated under the Companies Ordinance (Cap 32); and some are not legal entities but are organised to carry out activities to promote and/ or present patients’ interests). These patient groups or patient support groups serve different target groups including patients and patients’ relatives.

17. The Government has consulted major patient-related groups on the detailed arrangement for nominating representatives to sit on MCHK. Representatives present at the meeting pointed out that the legislation should not aim to formulate a precise definition of patient groups or

patient support groups. They considered it more desirable and practical for the legislation to allow sufficient flexibility to include as many relevant patient-related groups as possible. They also propose that the legislation should not specify the detailed arrangement so that the patient-related groups could work out the best arrangement among themselves.

18. The Government's proposal is to introduce arrangements for patient-related groups to elect representatives among themselves, in accordance with the guidelines agreed in consultation with patient-related groups, for appointment by CE. As regards consumers' interests, we consider that the Consumer Council could elect one person representing consumers' interests for appointment by CE.

**Food and Health Bureau**  
**April 2016**



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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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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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Ms. Jovi W.S. LAM  
林偉珊女士

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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2015 - 2016

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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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**CHIEF EXECUTIVE 行政總監**

Ms. Jovi W.S. LAM

林偉珊女士

**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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林偉珊女士

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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