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Panel on Health Services

**Background brief prepared by the Legislative Council Secretariat
for the special meeting on 29 February 2016**

The Medical Council of Hong Kong

Purpose

This paper summarizes the major views and concerns of members of the Panel on Health Services ("the Panel") on Hon Tommy CHEUNG's earlier proposal to introduce a Member's Bill to amend the Medical Registration Ordinance (Cap. 161) ("the Ordinance") in relation to the composition of the Medical Council of Hong Kong ("MCHK") and its Preliminary Investigation Committee ("PIC") and Health Committee.

Background

Composition and major functions of MCHK

2. MCHK is an independent statutory body established under the Ordinance for handling matters in relation to the registration and regulation of medical practitioners in Hong Kong. MCHK comprises a total of 28 members, with 24 members being registered medical practitioners and four lay members appointed by the Chief Executive ("CE"). Among the 24 MCHK members who are registered medical practitioners, seven are elected by registered medical practitioners with full and limited registration, seven others are members of the Hong Kong Medical Association ("HKMA") nominated by the Association, and the remaining 10 included two registered medical practitioners nominated by the Department of Health ("DH"), the University of Hong Kong ("HKU"), the Chinese University of Hong Kong ("CUHK"), the Hospital Authority ("HA") and the Hong Kong Academy of Medicine ("HKAM") respectively and appointed by CE.

3. Major functions of MCHK include, among others, maintaining a register of eligible medical practitioners; administering the Licensing Examination; determining and promulgating from time to time the employment or type of employment in respect of which limited registration is appropriate or necessary; handling complaints received against registered medical practitioners; conducting investigations into allegations of professional misconduct; and taking disciplinary actions in accordance with the procedures laid down in the Ordinance and the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161E) ("the Regulation").

Registration of medical practitioners

4. Under the Ordinance, a person is qualified to be registered as a medical practitioner if he or she has been awarded a degree of medicine and surgery offered by HKU or CUHK, and undergo a year of internship training at HA. All non-locally trained medical graduates are required to pass the Licensing Examination administered by MCHK and complete a prescribed period of internship at HA before they can register for practice in Hong Kong. Separately, specified institutions (including DH, HA, and the medical schools of HKU and CUHK) may apply to MCHK on behalf of non-locally trained doctors with proven experience and knowledge for limited registration in Hong Kong for the purpose of teaching, conducting research or performing clinical work for the institutions. The registration is valid for up to one year subject to annual renewal by MCHK.

Complaint investigation and disciplinary inquiry mechanism of MCHK

5. Under the Regulation, the chairman and the deputy chairman of PIC of MCHK will decide whether a complaint is frivolous or groundless and should not be proceeded further. If they consider that the case raises a question as to whether the fitness to practise of a registered medical practitioner is impaired by reason of his physical or mental condition and the question should be considered by the Health Committee of MCHK direct, they may refer the case to the Health Committee and recommend it to conduct a hearing. If the chairman and the deputy chairman of PIC consider that the complaint should be referred to PIC for full consideration, PIC will conduct preliminary investigation into the case and make recommendation to MCHK as to whether or not an inquiry should be conducted. PIC may also refer the case in whole or in part to the Health Committee for a hearing if there is a question that the fitness to practise of the medical practitioner concerned may be impaired.

6. PIC comprises a chairman and a deputy chairman elected from among members of MCHK; one of the four lay members of MCHK; and four others

who are registered medical practitioners not being members of MCHK, each nominated by HKMA, DH, HA and any member of MCHK respectively. The quorum of a PIC meeting is three, at least one of whom shall be a lay member of MCHK, subject to the majority being registered medical practitioners, including the chairman or deputy chairman, or both. The Health Committee comprises a chairman and two members elected from among members of MCHK; one of the four lay members of MCHK; one to three persons who are not members of MCHK, whom MCHK considers appropriate; and four others who are registered medical practitioners not being members of MCHK, with two nominated by HKMA and the other two each nominated by DH and HA respectively. The quorum of a Health Committee meeting is five (including the chairman), at least one of whom shall be a lay member of MCHK, subject to the majority being registered medical practitioners.

Deliberations of the Panel

7. The Panel discussed Hon Tommy CHEUNG's proposal to introduce a Member's Bill to amend the Ordinance to increase the number of lay members of MCHK and that of PIC and the Health Committee. The deliberations and concerns of members are summarized in the following paragraphs.

Lay involvement in the composition of MCHK

8. Members in general supported Hon Tommy CHEUNG's proposal which sought to increase the number of lay members of MCHK from four to eight, and the number of lay members in PIC and the Health Committee from one to two. There was a suggestion that the lay members of MCHK should include, among others, patient representatives. On the concern that the proposed increase in the number of lay members appointed by CE in MCHK went against the principle of professional autonomy conferred upon the profession by Article 142 of the Basic Law, the Administration stressed that MCHK was an independent statutory body operated under the principle of professional autonomy. The medical practitioner members outnumbered its lay members under the existing composition and the proposal.

9. Members noted that the medical sector generally raised no objection to increasing lay involvement in the composition of MCHK. There was, however, a view that it was necessary to maintain the ratio of appointed members to elected members in MCHK in the last legislative exercise in 1997. Hence, the total number of MCHK members being elected by registered medical practitioners and nominated by HKMA should in parallel be increased by four having regard to the fact that the number of registered medical practitioners had increased significantly over the years. As a further step, taking into account

that the ratio of lay members to medical practitioners members in MCHK would be changed from 1:6 (i.e. four lay members to 24 medical practitioner members) to 1:3 (i.e. eight lay members to 24 medical practitioner members) under the proposal, consideration could be given to respectively increasing the number of lay members and medical practitioner members to 10 and 30 to achieve the ratio of 1:3.

Time taken by MCHK for preliminary complaint investigations

10. In view of the increase in the number of complaint cases concerning the professional conduct of registered medical practitioners in recent years and the long time currently taken by MCHK for preliminary complaint investigation, members were concerned about whether the proposal of increasing the number of lay members in PIC from one to two could expedite the complaint handling process of MCHK.

11. Hon Tommy CHEUNG advised that the four lay members of MCHK currently took turn to perform their roles in preliminary investigations every three months. It was expected that with the increase of lay members in MCHK from four to eight and the increase of lay members in PIC from one to two, two teams, each with one lay member of PIC forming its membership, could work in parallel to consider the complaints.

Admission of non-locally trained doctors

12. Some members considered that while it was necessary to ensure the professional standard of non-locally trained medical graduates at a level comparable to that of local medical graduates, more measures should be taken to facilitate them to practise in Hong Kong.

13. According to the Administration, MCHK had increased the frequency of the Licensing Examination from once to twice a year starting from 2014 and introduced more flexibility to the relevant internship requirement, so as to facilitate more overseas-trained doctors to practise in Hong Kong. Separately, the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development was conducting a strategic review on, among others, healthcare manpower planning for 13 healthcare professions, including doctors. The review was expected to be completed in mid 2016.

Secretarial support for MCHK

14. There were views that the secretariat support for MCHK in discharging its functions should rest with the profession instead of the Government to preserve

the principle of professional autonomy. It was expected that the registered medical practitioners would be willing to shoulder the cost for operating a secretariat independent from the Government. The Administration advised that there was no conflict between upholding the principle of professional autonomy and providing secretarial support for MCHK. In addition, there were views in the community that the Administration should play a role in the operation of MCHK to ensure the quality of healthcare.

Latest development

15. At the meeting of the Executive Council on 16 February 2016, the Executive Council advised and CE ordered that the Medical Registration (Amendment) Bill 2016 should be introduced into the Legislative Council to increase lay participation in MCHK; improve the complaint investigation and disciplinary inquiry mechanism of MCHK; and facilitate the admission of non-locally trained doctors, in particular specialists, to practise in Hong Kong.

16. The Administration will brief the Panel on the legislative proposal at its special meeting on 29 February 2016.

Relevant papers

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

Relevant papers on the Medical Council of Hong Kong

Committee	Date of meeting	Paper
Panel on Health Services	16.11.2015 (Item IV)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
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