

立法會
Legislative Council

LC Paper No. CB(2)615/99-00
(These minutes have been
seen by the Administration)

Ref : CB2/BC/18/98

Bills Committee on Chinese Medicine Bill

Minutes of meeting
held on Thursday, 3 June 1999 at 8:30 am
in Conference Room A of the Legislative Council Building

Members Present : Prof Hon NG Ching-fai (Chairman)
Hon Cyd HO Sau-lan
Hon Michael HO Mun-ka
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Dr Hon LEONG Che-hung, JP
Hon YEUNG Yiu-chung
Hon Ambrose LAU Hon-chuen, JP
Hon CHOY So-yuk

Members Absent : Hon David CHU Yu-lin
Hon HO Sai-chu, JP
Hon LEE Kai-ming, JP
Dr Hon LUI Ming-wah, JP
Hon CHAN Yuen-han
Dr Hon Philip WONG Yu-hong
Dr Hon TANG Siu-tong, JP
Hon SZETO Wah
Hon LAW Chi-kwong, JP

Public Officers Attending : Mr Gregory LEUNG, JP
Deputy Secretary for Health and Welfare (1)

Miss Eliza YAU
Principal Assistant Secretary for Health and Welfare (Medical) 1

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Miss Miranda NG
Senior Assistant Law Draftsman, Department of Justice

Dr LEUNG Ting-hung
Assistant Director of Health (Traditional Chinese Medicine)

Attendance by Invitation : Mrs Eleanor CHAN
Hong Kong Physiotherapy Association

Ms Rosa MAH
Hong Kong Physiotherapy Union

Dr Mason LEUNG
Department of Rehabilitation Science
Hong Kong Polytechnic University

Mr Herman LAU
Acupuncture Steering Group (Physiotherapy)
Hospital Authority

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Mr Raymond LAM
Senior Assistant Secretary (2) 5

I. Meeting with representatives of the physiotherapy profession in Hong Kong
(LC Paper No. CB(2)2183/98-99(01))

At the invitation of the Chairman, Mrs Eleanor CHAN presented the submission of the physiotherapy profession and highlighted the following -

- (a) the practice of acupuncture by physiotherapists in Hong Kong had started in the 1980's when some trained physiotherapists used acupuncture as a treatment modality. It was becoming more evidence-

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based after various clinical studies and researches;

- (b) there were both undergraduate training and post-graduate training in the application of acupuncture in physiotherapy;
- (c) the acupuncture practice of physiotherapists was monitored with the Standards of Practice of Acupuncture for Physiotherapists in Hong Kong issued by Hong Kong Physiotherapy Association (HKPA), which was a founding member of the International Acupuncture Association of Physiotherapist (IAAPT);
- (d) the qualification of physiotherapists practising acupuncture was vetted by an Accreditation Board;
- (e) clinical diagnosis was carried out before the physiotherapy treatment for a patient was determined;
- (f) there were currently over 1000 registered physiotherapists in Hong Kong, among whom over 100 had completed recognized acupuncture courses qualifying them to practise acupuncture as a treatment modality;
- (g) the physiotherapy profession in Hong Kong had a good reputation in both quality of clinical service and technological advancement; and
- (h) it was crucial to maintain acupuncture as one of the treatment modalities for physiotherapy.

Accreditation of physiotherapists

2. Mrs Selina CHOW enquired about the method of accreditation and the body responsible for accreditation. Mrs Eleanor CHAN responded that the accreditation was carried out by an Accreditation Board. The qualification of a physiotherapist was verified by the Physiotherapists Board when a person applied for registration as a physiotherapist. Registered physiotherapists who wished to practise acupuncture had to successfully complete a training course of 80 hours, 20% of which was practical training. Such training in acupuncture had to be vetted by an Accreditation Board.

Difference between the acupuncture practice of physiotherapists and that under traditional Chinese medicine

3. On the question of how the acupuncture practice of physiotherapists differed from that of traditional Chinese medicine, Dr Mason LEUNG said that there were two main streams of acupuncture. One was traditional acupuncture, in which all practice, including diagnosis and treatment, was based on traditional Chinese medicine. The

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other stream was modern acupuncture, in which the diagnosis, treatment and research were evidence-based. The acupuncture techniques used by physiotherapists in Hong Kong belonged to the stream of modern acupuncture. The diagnosis of patients referred from medical practitioners were also based on Western medicine. The acupuncture applied by physiotherapists was made after X-ray checks, diagnosis of musculo-skeletal conditions, cardiopulmonary conditions and neurological conditions before acupuncture was applied to a person's muscle or sympathetic nervous system. Issues such as the duration of acupuncture and the electric current to be applied were all determined with techniques used under Western medicine.

4. While noting that the acupuncture practice of physiotherapists was evidence-based and fell within the stream of Western medicine, Dr LEONG Che-hung enquired about the evidence for such acupuncture on the *acupoints* of patients. He asked whether the acupuncture of *acupoints* was based on experience rather than scientific evidence. He also wished to know whether the acupuncture technique adopted by physiotherapists was a modern application of the traditional technique or a new technique which was evidence-based. In response, Dr Mason LEUNG said that although acupuncture originated from Chinese medicine, research had revealed that acupuncture was closely related to the neurological system of the human body. Despite the origin, a separate body of knowledge, along the direction of modern acupuncture was being developed on the basis of primary scientific research and clinical research. He added that to his knowledge, "channels" and "collaterals" were descriptions of phenomenon rather than explanations of causes. While there were similarities between the acupuncture practice of physiotherapists and that under traditional Chinese medicine, there were also differences.

5. Dr LEONG Che-hung asked whether training in acupuncture was mandatory for registration as a physiotherapist. Mrs Eleanor CHAN responded that about 10% of registered physiotherapists had completed recognized acupuncture courses which enabled them to practise acupuncture as a clinical modality. While training in acupuncture was not a pre-requisite for registration as a physiotherapist, it was set out in the Code of Practice for physiotherapists that a registered physiotherapist should recognize the extent and limitation of his professional expertise and provide services that were within his competence.

6. Miss Rosa MAH said that the use of the term "acupuncture" should not be exclusive to Chinese medicine practitioners (CMPs). Since many years ago, electrolysis had also been applied to *acupoints*. Dr Mason LEUNG added that besides the use of electrolysis, acupuncture was practised by physiotherapists. *Acupoints* was not exclusive to Chinese medicine. The names of many new *acupoints* had incorporated Western medical terms. Under micro-system acupuncture, there were more than 300 *acupoints* named with Western medical terms, as compared to less than a hundred *acupoints* under traditional Chinese medicine. To his knowledge, Chinese medicine was also developing in the direction of evidence-based research. He stressed that the use of acupuncture by physiotherapists would

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only be made with sufficient evidential support and within the scope of practice of physiotherapists.

Treatment protocol

7. Mr Michael HO enquired whether there were clear treatment protocol for physiotherapists. He also enquired whether there were guidelines on the maintenance of medical records, which could reveal whether a physiotherapist was practising Chinese medicine or Western medicine and serve as evidence when any matter relating to the issue was brought to the court.

8. In response, Mr Herman LAU said that since 1987, physiotherapists of the Hospital Authority (HA) had been making use of acupuncture within their scope of practice. Treatment protocol had been developed on the basis of experience gained. Besides acupuncture, physiotherapists were also using other techniques in the treatment of patients. HKPA had issued a guideline on the maintenance of records. The guideline was compliant with the requirements of IAAPT. A practising guideline had also been developed by HA.

Communication with practitioners of traditional acupuncture

9. Miss Cyd HO asked whether the physiotherapy profession had maintained communication with practitioners of traditional acupuncture. She also enquired whether persons practising traditional acupuncture had applied for taking acupuncture courses organized for physiotherapists. In response, Dr Mason LEUNG said that the acupuncture-related training courses were divided into degree courses and post-graduate courses, both of which were only available to physiotherapists. Communication with practitioners of traditional acupuncture was only made on a personal or academic basis.

Relationship between physiotherapy associations

10. As regards the relationship between HKPA, IAAPT, World Confederation of Physiotherapists (WCPT) and World Health Organization (WHO), Dr Mason LEUNG explained that IAAPT was a sub-group of WCPT, which was a member organization of WHO. As a member of IAAPT, HKPA had to comply with certain practice standards.

11. Mr Michael HO enquired whether a patient could easily distinguish whether a physiotherapist was practising traditional acupuncture or modern acupuncture based on Western medicine. He also asked how a patient could know whether a physiotherapist was eligible for practising acupuncture. Dr Mason LEUNG responded that differentiation should not be difficult, since the diagnosis, method of treatment, treatment protocol were all different. He added that physiotherapists had

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to apply for accreditation by the Accreditation Board. In this connection, the Chairman asked whether a certificate would be issued to an eligible physiotherapist. Ms Rosa MAH responded that an accredited person was currently not issued with a certificate. However, HKPA would consider such a suggestion, as it would be to the benefits of patients. Mrs Eleanor CHAN added that as a professional, a physiotherapist had to comply with the code of providing service within his competence.

Other medical professions practising acupuncture

12. Responding to Mr Michael HO's question on whether there were any other Western health care professions practising acupuncture, Dr Mason LEUNG said that to his knowledge, the only health care professions practising acupuncture were physiotherapists and medical practitioners. They were required to undergo certain training and accreditation by relevant bodies before being allowed to practise acupuncture.

13. In response to Dr LEONG Che-hung, Dr Mason LEUNG said that some of the *acupoints* at which acupuncture were applied was the same as the locations for electrolysis. Electrolysis was different in that it was sometimes applied to an area, while acupuncture was confined to a point.

14. In response to Miss CHOY So-yuk, Mrs Eleanor CHAN said that physiotherapists who practised acupuncture without accreditation would be subject to disciplinary actions set out in the Code of Practice for physiotherapists.

15. Mrs Selina CHOW commented that in deciding whether physiotherapists should be allowed to continue practising acupuncture within their scope of practice should depend on whether the treatment in question was safe to patients, and whether it was supported by relevant research and training. Once these were satisfied, the application of the technique should not be restricted. The development of medicine should not be hindered by legislation, provided that the treatment was a safe one. *Acupoints* should not be a prerogative of CMPs. Many medical practitioners had already been using the technique of acupuncture in the treatment of patients. She considered that as a matter of policy, the application of acupuncture should not be confined to CMPs.

16. In response, Dr Mason LEUNG said that the "Standards of Practice of Acupuncture for Physiotherapists in Hong Kong" (Standards of Practice) and the Accreditation Board for registered physiotherapists practising acupuncture in Hong Kong were established for ensuring the safety of patients and quality of service. Physiotherapists were required to employ aseptic technique and use disposable needle that would only be used once. The Standards of Practice had also set out the procedures to be followed in the event of accidents. There had not been any incident in which adverse effect had been caused by the use of acupuncture by physiotherapists

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in Hong Kong since 1986. With a sound referral system within hospitals and the service provided by other health care professionals, full protection comparable to those in overseas countries was provided to patients undergoing such treatment. Mr Herman LAU said that it would be unfair to a patient if acupuncture would relieve his pains but could not be applied by physiotherapists due to restriction in the legislation.

17. Mr Michael HO said that after listening to the views expressed, he considered that the acupuncture treatment by physiotherapists was a safe one. He considered that "acupoint" was only the name of a location on the human body and therefore should not be exclusive to CMPs. The acupuncture treatment by physiotherapists should not be prohibited if there was evidence showing the effectiveness of such treatment. The Bill might have to be amended to allow the continuation of such treatment by physiotherapists.

II. Meeting with the Administration

(LC Paper No. CB(2)2192/98-99(01))

18. Members noted that a paper on the deliberations of the Preparatory Committee on Chinese Medicine (PCCM) on the criteria for exemption from licensing examinations would be provided by the Administration before the next meeting on 10 June 1999.

Visit to No. 2 Affiliated Hospital of Guangzhou University of Traditional Chinese Medicine

19. In response to the Chairman, ADH (TCM) said that the Guangzhou University of Traditional Chinese Medicine had verbally agreed to members' visit to the No. 2 Affiliated Hospital of the University on 13 June 1999. A tentative itinerary had been drawn up. Participants would depart from the Legislative Council Building at 7:30 am and arrive at the No. 2 Affiliated Hospital at 10:30 am. After lunch, a visit would be made to the Ershadao District Hospital of the University, which would be followed by a meeting with representatives of the University and its affiliated hospital.

Submission of the Hong Kong College of Obstetricians and Gynaecologists

20. Members noted the submission of Hong Kong College of Obstetricians and Gynaecologists (LC Paper No. CB(2)2192/98-99(01)).

21. Dr LEONG Che-hung said that the submission reflected many people's concern about what CMPs would be allowed to do, such as whether they would be allowed to carry out treatment of haemorrhoid. Deputy Secretary for Health and Welfare (1) (DSHW1) said that it would be very difficult to set out in details what CMPs could and could not do. The issue might be dealt with generally in the Code of Practice to be prepared by the Chinese Medicine Council of Hong Kong (CMC).

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22. Miss CHOY So-yuk said that a patient might not be aware that a CMP was not allowed to carry out surgery, and that a medical practitioner was not allowed to prescribe Chinese herbal medicine. Education of the public in this respect was very important. DSHW1 responded that a number of health care professions in Hong Kong had codes of practice setting out what they were allowed to do and the methods to be used. Similarly a code of practice would be drawn up for CMPs. A code of practice had an advantage over legislation in that it could be easily amended to reflect the latest developments. While expressing support for a code of practice, Miss CHOY So-yuk said that her major concern was the enhancement of the awareness of patients. ADH(TCM) responded that the Administration would launch publicity to increase public awareness of the Chinese medicine regulatory system as well as Chinese medicine in general. Dr LEONG Che-hung asked whether a code of practice for CMPs was being drafted. In response, ADH(TCM) said that a set of guidelines had been drawn up by the PCCM. This could serve as a basis for development into a code of practice for CMPs.

Members' views on the acupuncture practice of physiotherapists in the treatment of patients

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23. Members generally considered that physiotherapists with relevant training in acupuncture should be allowed to continue to make use of acupuncture within the scope of physiotherapy practice, provided that it was not a full-scale use of acupuncture. They requested the Administration to consult the PCCM on the issue and report back to the Bills Committee. Mrs Selina CHOW said that such a policy should not apply only to the physiotherapy profession, but also to other health care professions practising acupuncture within their scope of practice. Miss CHOY So-yuk added that the policy should not be confined to acupuncture but should be extended to other techniques used by health care professionals. Similarly, a CMP should be allowed to make use of techniques used by other health care professionals within his scope of practice. A pre-requisite of these should be relevant professional training.

Definition of "practising Chinese medicine"

24. Mrs Selina CHOW commented that the definition of "practising Chinese medicine" was too broad. Referring to the definition of "practising Chinese medicine" in clause 2, she enquired whether "traditional Chinese medicine" included surgery, gynaecology and obstetrics. She was concerned whether the definition was clear enough to indicate the inclusions and exclusions. DSHW1 responded that the issue had been considered in depth in the drafting of the Bill. It was already the best option, taking into account the need to avoid hindrance to the development of Chinese medicine. In other similar legislation, such a kind of definition could not be found. Mrs Selina CHOW disagreed and said that the Administration should define the scope of practice of CMPs. DSHW1 responded that in the longer term, there might be

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overlap between the scope of practice of different medical professions. He pointed out that specifying the scope of practice might hinder the development of the profession and give rise to dispute between different medical professions, as a medical term might have different interpretation by different medical professions. ADH(TCM) added that there were grey areas between different health care professions. For example, there was a certain degree of overlap between the service of physiotherapists and occupational therapists. Caution had been exercised to avoid hindering the future development of Chinese medicine. It was difficult to draw up a list of what CMPs could and could not do. Even if it could be drawn up, it would be a very long list. The interface between Western medicine and Chinese medicine might need to be sorted out by the Medical Council of Hong Kong and CMC.

25. Dr LEONG Che-hung considered it inappropriate for the Medical Council of Hong Kong and CMC to sort out their interface. Mr Michael HO said that while it would be inappropriate for the two medical councils to sort out the interface, the two bodies could separately determine their own scope of practice. As legislation could not set out all the details, some of the details could be set out in the code of practice.

26. Miss CHOY So-yuk said that it was difficult to say that a CMP should not be allowed to carry out obstetric procedures, as some of them also assisted in the delivery of babies. She considered that the scope of practice should be based on whether the practitioner had received professional training in the relevant area. ADH(TCM) responded that the code of practice of a number of health care professions required a practitioner to carry out his work within his competence. The practitioners could also be sued for professional negligence. He hoped that clearer guidelines would be drawn up by the CMP Board and the Chinese Medicines Board.

27. Mrs Selina CHOW was concerned that a person not qualified for a certain kind of practice might become eligible for practice under the Bill. She considered that the CMP Board could address the issue. She enquired whether the code of practice for CMPs would take the form of subsidiary legislation. She considered that the subsidiary legislation only needed to set out the criteria, such as requirements in respect of experience or training, for an eligible person. Dr LEONG Che-hung and Mr Michael HO supported the view that the code of practice should be in the form of subsidiary legislation as it would allow participation of the public in drawing up the code. DSHW1 agreed to look into the suggestion. However, he pointed out that as six out of 14 members of the CMP Board would be lay members, it should be adequate for ensuring balance of views.

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III. Date of next meeting

28. Members noted that the next meeting had been scheduled for 10 June 1999 at 4:30 pm. Professor Joseph LEE of the Faculty of Medicine of the Chinese University of Hong Kong would attend the meeting for discussion with members on the use of

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Chinese medicine by practitioners of Western medicine in the treatment of patients. Members agreed that after meeting with all deputations, a meeting should be held with representatives of PCCM to discuss the issues raised.

29. The meeting ended at 10:40 am.

Legislative Council Secretariat

14 December 1999