

立法會
Legislative Council

LC Paper No. CB(2)500/99-00
(These minutes have been
seen by the Administration)

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Bills Committee on Chinese Medicine Bill

Minutes of meeting
held on Wednesday, 5 May 1999 at 8:30 am
in Conference Room B of the Legislative Council Building

Members Present : Prof Hon NG Ching-fai (Chairman)
Hon HO Sai-chu, JP
Hon Michael HO Mun-ka
Hon LEE Kai-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Hon YEUNG Yiu-chung
Dr Hon TANG Siu-tong, JP
Hon LAW Chi-kwong, JP

Members Absent : Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon LUI Ming-wah, JP
Dr Hon Philip WONG Yu-hong
Hon Ambrose LAU Hon-chuen, JP
Hon CHOY So-yuk
Hon SZETO Wah

Public Officers Attending : Mr Gregory LEUNG Wing-lup, JP
Deputy Secretary General 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)

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

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

Ms Joanne MAK
Senior Assistant Secretary (2) 4

I. Meeting with the Administration

(LC Papers Nos. CB(2)1778/98-99(04) and CB(2)1844/98-99(01))

Discussion of the main issues raised by deputations at previous meetings

The Chairman informed members that the Clerk had prepared a summary of the issues raised by the deputations for consideration by the Bills Committee (LC Paper No. CB(2)1844/98-99(01)). Members agreed to go through item by item of the summary.

Integrated use of Chinese medicine and Western medicine in the treatment of patients

2. Deputy Secretary General for Health and Welfare (1) (DS(HW)1) said that the Administration had decided that only Chinese medicine practitioners should be allowed to practise Chinese medicine and only medical practitioners allowed to practise Western medicine. In response to the Chairman's follow-up question, DS(HW)1 said that if a person managed to register both as a medical practitioner and as a Chinese medicine practitioner, he could practise both kinds of medicine.

3. Mr Michael HO Mun-ka noted that some existing medical practitioners had practised acupuncture for a long time (for some 20 years in some cases) and sought the Administration's view on this. In response, DS(HW)1 pointed out that the proposed registration system targetted at regulating the standards of Chinese medicine practitioners in general practice, bone-setting and acupuncture. Assistant Director of Health (Traditional Chinese Medicine) (AD(TCM)) explained that acupuncture was only one of the subjects in Chinese medicine. It was inadequate for one to practise acupuncture if

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one had only learnt the skills of it without learning Chinese medicine in its all aspects. He emphasized that it was essential for a person to have gained a full knowledge in Chinese medicine in order to be qualified to use acupuncture in the treatment of patients. AD(TCM) said it was proposed that, after passage of the Bill, only those who managed to meet the requirements for registration as a Chinese medicine practitioner would be allowed to use acupuncture.

4. Dr LEONG Che-hung supported that only Chinese medicine practitioners should be allowed to practise Chinese medicine and only medical practitioners should be allowed to practise Western medicine for the benefit of protection of public health. He also supported the Administration's proposal that only registered Chinese medicine practitioners could use acupuncture. However, he was concerned about how to define the scope of "practising Chinese medicine".

5. Mrs Selina CHOW took the view that it was a bit harsh to require a medical practitioner to meet the full requirements for registration as a Chinese medicine practitioner before he was allowed to use acupuncture in the treatment of patients. She highly recommended the Administration to make reference to overseas experiences as to how to regulate the practice of acupuncture. She proposed that a medical practitioner who claimed to be competent to practise acupuncture could be required to attend examinations to assess his skills and knowledge. If he passed the assessments, he should be allowed to use acupuncture (but not to practise as a Chinese medicine practitioner).

6. Mr Michael HO Mun-ka shared the views of Mrs Selina CHOW and quoted some cases to illustrate that some medical practitioners had actually very rich experiences in the use of acupuncture. With reference to the Administration's paper (LC Paper No. CB(2) 1778/98-99(04)), AD(TCM) pointed out that some foreign countries had put in place licensing systems for regulating the practice of acupuncture. Some countries required a person to pass a licensing examination and some only required a person to complete a training programme on acupuncture in order to obtain the licence for the practice. He considered that for the purpose of raising the status of Chinese medicine, more stringent requirements should be imposed on the local practitioners who wanted to practise acupuncture.

7. In response to Dr TANG Siu-tong's enquiry, AD(TCM) said the Bill proposed that for those who had practised acupuncture for more than 15 years, they could apply for exemption from the Licensing Examination to get registered. In these cases, they might be required to be called "Registered Chinese Medicine Practitioner (Acupuncture)". DS(HW)1 agreed that the qualifications of the existing Chinese medicine practitioners were highly variable and some of them might only know acupuncture without a full knowledge in Chinese medicine. He suggested that the Chinese Medicine Council (CMC) after establishment should be requested to look at individual cases of applications for registration.

8. Referring to the cases quoted by Mr Michael HO Mun-ka, Mrs Selina CHOW

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suggested that the Administration should put in place a qualifying examination for the existing medical practitioners who wanted to continue with the use of acupuncture in the treatment of patients. These medical practitioners should be allowed to do so if they could pass the examination. She was of the view that the Administration should take note of the world trend and the fact that acupuncture was receiving more and more attention. She considered that if overseas medical practitioners were allowed to use acupuncture by proving that they had reached the required standards, the local medical practitioners should follow suit.

9. Miss CHAN Yuen-han echoed Mrs Selina CHOW's views and pointed out that the Administration should address patients' practical demands for acupuncture service. Mrs Selina CHOW requested the Administration to see what qualification requirements were imposed on acupuncturists in overseas countries. AD(TCM) explained that in overseas countries such as in the United States and Canada, an applicant for registration as an acupuncturist had to complete prescribed training courses on acupuncture, the duration of which varied from state to state. However, he pointed out that it was all due to the fact that Chinese medicine was not recognized in these countries and therefore the governments there had to put in place a separate licensing mechanism for acupuncturists alone.

10. Dr LEONG Che-hung suggested the Administration to explore whether it would be possible to provide licences specifically for the practice of acupuncture. Mr LEE Kai-ming took the view that it would be a pity if a medical practitioner could not use acupuncture in his treatment of patients although he had well learnt the use of it and was competent to use it. He suggested the Administration to consider giving exemptions to medical practitioners to practise acupuncture on the conditions prescribed by the CMC. However, Mr Michael HO Mun-ka took the view that the granting of exemptions could not guarantee the standards of the acupuncture service provided by the exempted medical practitioners. Instead, he preferred to specify by law the qualifications which a person should acquire in order to practise acupuncture. He added that, as far as he knew, there were not only medical practitioners using acupuncture but also chiropractors and physiotherapists did so. In addition, some overseas acupuncturists were also practising in Hong Kong. He requested the Administration to address these cases as well.

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11. DS(HW)1 said that the Administration needed to consult the sector. It would then further decide whether or not it was possible to issue a separate licence for the practice of acupuncture only and whether or not such licence could be issued to people who could not register as Chinese medicine practitioners. Mrs Selina CHOW considered that the Administration had confused the matters and pointed out that members' concerns were about the existing medical practitioners, not any one else, who had been using acupuncture for quite a long time. She stressed that medical practitioners should be given special consideration in this case for their professional knowhow and practical experience in the treatment of patients .

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12. Members in general supported that for those existing medical practitioners who had been using acupuncture in their treatment of patients should be allowed to use it provided that they could demonstrate that they had reached the required standard. The Administration agreed to take note of members' views and consider their suggestions.

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Scope of "practising Chinese medicine"

13. DS(HW)1 invited members' attention to clause 2 on "Interpretation" of the Bill under which the definition of "practising Chinese medicine" was set out. Dr LEONG Che-hung was worried that it was unclear as to the distinction between the scope of "practising Western medicine" and that of "practising Chinese medicine". DS(HW)1 explained that the Administration suggested that the two should be distinguished, not by the medical instruments or the approach used in the course of consultation, but by the theoretical basis of which kind of medicine that had been applied. In fact, he noted that nowadays some practitioners in bone-setting had been interpreting the results of X-ray investigation for their patients while some medical practitioners did pulse-reading. He said that the Administration would suggest the CMC to further discuss with the Medical Council of Hong Kong (HKMC) on these matters.

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14. Dr LEONG Che-hung remarked that if Chinese medicine practitioners were allowed to refer patients for radiography, it would be necessary for the Administration to make consequential amendments to the Supplementary Medical Professions Ordinance (Cap. 359). Mr Michael HO Mun-ka said that in the first place he did not support the existing regulation that X-ray service was provided only on referrals by medical doctors and commented that this policy was outdated. Mr HO Sai-chu agreed with Mr HO and supported that Chinese medicine practitioners should be allowed to refer patients for X-ray. In response, AD(TCM) considered that the Administration would need to consult the views of the Chinese medicine sector before putting up any proposals on this matter. In addition, he pointed out that inclusion of training on the interpretation of results of radiological investigations in the studies of Chinese medicine would be required to support the claim that Chinese medicine practitioners should be allowed to refer patients for radiography.

Exemption clause proposed by the HKMC to be added to clause 108(3) of the Bill

15. Both the Administration and members did not support the proposal of the HKMC as it was difficult to define the meaning of "modern scientific methods" which was too broad. Principal Assistant Secretary for Health and Welfare (Medical) 1 (PAS(HW)(M)1) pointed out that as explained before, the distinction between Chinese medicine and Western medicine should not be made on the basis of the approach or methods used in the course of consultation. PAS(HW)(M)1 said that with the passage of the Bill, consequential amendments would be made to the Medical Registration Ordinance (Cap.161) deleting "modern scientific methods".

16. Dr LEONG Che-hung considered that the deletion would lead to problems in the

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distinction between the scope of "practising Western medicine" and that of "practising Chinese medicine". In response to Dr LEONG's enquiries, PAS(HW)(M)1 said that use of X-rays would continue to be subject to the restrictions laid down in Cap. 359. As to whether or not Chinese medicine practitioners could use thermometers or refer patients for other health care services would be subject to further discussions between the CMC and the HKMC in the future and any agreements reached could be specified in their respective codes of practice. However, Dr LEONG was concerned that the proposed deletion would imply that Chinese medicine practitioners would be allowed to use modern scientific methods in their treatment of patients and there would be then no more differences between the practice of Western medicine and the practice of Chinese medicine. In response, DS(HW) said that the Administration in deleting "modern scientific methods", would explore the appropriate expressions for substitution of it in the MRO to address Dr LEONG's concerns. He pointed out that it was difficult to define "modern scientific methods" and, with the rapid advancement of technology, a "modern scientific method" might be considered as no more "modern" within a short period of time. Therefore, the Administration proposed that the scope of "practising Chinese medicine" and that of "practising Western medicine" should be distinguished more appropriately by their different theories of diagnosis and application. However, Dr LEONG Che-hung pointed out that the theories of Chinese medicine did not provide for the use of X-rays for the diagnosis of cancer or the conduct of blood test for the diagnosis of hepatitis since there was no mentioning of such diseases in Chinese medicine.

17. The Chairman shared the Administration's view and he agreed that X-ray, for example, was simply a tool which should not be forbidden from use in any particular kind of medicine. However, he agreed that a medical practitioner must have received the appropriate training before he was allowed to use any particular kind of medical equipment. He supported that the matter could be sorted out by the CMC and the HKMC in the future. Mr Michael HO Mun-ka said that it must be avoided that the Chinese Medicine Bill would lead to confusions in the distinction between "practising Chinese medicine" and "practising Western medicine". He suggested to further discuss if it was appropriate to make the proposed deletion to the MRO after looking at the wording of the proposed amendments to be provided by the Administration. He personally considered that the term "modern scientific methods" was very outdated which only served the purpose of restricting the developments of alternative medicines. He agreed with the Chairman that CT Scans, MRI and so on were merely tools which could be adopted for use in any fields of medicines. He did not think that Chinese medicine practitioners should be restricted from using any modern medical equipment for the purposes of diagnosis and treatment of patients provided that they had received the proper training in the use of it. He considered that any such restrictions would be against the expectation of the general public.

18. Dr LAW Chi-kwong took the view that there should not be any monopoly of knowledge and proposed that the law should not be too restrictive in stipulating the scopes of training and practice of Chinese medicine practitioners to allow flexibility for the development of Chinese medicine.

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19. PAS(HW)(M)1 pointed out that since the meaning of "practising Chinese medicine" was clearly defined in the Bill, there was no need to add the proposed exemption clause to the Bill. Mr Michael HO Mun-ka agreed that the coverage of the proposed exemption would be very wide since it was hard to define the term "modern scientific methods". Dr LEONG Che-hung also agreed that the meaning of "modern scientific methods" was too broad. However, he was worried that the scope of "practising Chinese medicine" would be too unrestricted if the Administration deleted "modern scientific methods" from the MRO. PAS(HW)(M)1 suggested that members could further discuss the matter when the draft consequential amendments to the MRO were made available to members for consideration.

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Use of titles like “ 醫生 ” and “ 中醫生 ” by Chinese medicine practitioners

20. PAS(HW)(M)1 said that in the MRO, Chinese medicine practitioners were referred to as "any person of Chinese race who practises medicine or surgery according to purely Chinese methods". She said that amendments were proposed to be made to the MRO to change calling them as "registered Chinese medicine practitioners" or "listed Chinese medicine practitioners". She assured members that the titles that Chinese medicine practitioners were authorized to use would be set out in the Bill. Those titles they could not use would be set out in the MRO by way of consequential amendments. She said that details of these would be provided to members for consideration. DS(HW) said that the Administration had no objection to the use of titles of “中醫生” by Chinese medicine practitioners. However, it did not support that Chinese medicine practitioners could be called “醫生” as by tradition the name was taken to mean a medical practitioner. Mr Michael HO Mun-ka objected to this and said that he personally considered that medical practitioners, Chinese medicine practitioners, dentists, chiropractors or veterinarians were all "doctors" and should be allowed to use “醫生” as their titles. He also believed that the general public had well accepted that Chinese medicine practitioners were "doctors".

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21. Senior Assistant Legal Adviser confirmed that by law, it was restricted that only medical practitioners could be called "doctors". Mrs Selina CHOW took the view that if Chinese medicine practitioners could be called "中醫生", there were no reasons to forbid them from being called “醫生”. She further made the point if the Bill was intended to upgrade the status of Chinese medicine and require Chinese medicine practitioners to take licensing examinations, they should be allowed to be called “醫生” as a recognition of their professional status. Dr LEONG Che-hung said that he was not against allowing Chinese medicine practitioners to be called “醫生”. However, he suggested to further decide on the matter after the Administration had provided details of their proposals to the Bills Committee.

Clause 93 - Exemptions from Licensing Examination

22. Members in general supported the arrangement proposed under clause 93 and

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considered that it was a pragmatic approach to deal with the "grandparents" issue of the existing Chinese medicine practitioners. Mrs Selina CHOW considered that customers should be given to know which Chinese medicine practitioners had learnt Chinese medicine by self-studies and which were by completing formal studies in universities. She suggested the Administration to make it a mandatory requirement for the Chinese medicine practitioners to quote their qualifications in their titles. Mr Michael HO Mun-ka said he supported that customers had the right to know the qualifications of a Chinese medicine practitioner. However, he had reservations about Mrs Selina CHOW's proposal as he noted from the general practice of optometrists that they were inclined to display all their certificates of qualifications at prominent places of their premises. He believed that Chinese medicine practitioners would follow the same practice. Mrs Selina CHOW believed so and agreed not to pursue her proposal.

23. Miss CHAN Yuen-han enquired how to calculate the years of experience of part-time Chinese medicine practitioners for the purpose of registration. In reply, AD(TCM) said that the CMC would further decide on how to handle these cases. DS(HW)1 advised that the term "part-time" was rather broad and suggested that the CMC might need to consider individual cases based on their own merits. In response to Mrs Selina CHOW's enquiry, DS(HW)1 confirmed that provisions would be made in the relevant subsidiary legislation to authorize the CMC the power to apply discretion in such cases. Mrs CHOW suggested to make a note that members in scrutinizing the subsidiary legislation should pay attention to the detailed proposals on this part.

II. Date of next meetings

24. Members agreed to schedule the next meeting for 18 May 1999 at 8:30 am. to further discuss the Bill.

25. The meeting ended at 10:30 am.

Legislative Council Secretariat
30 November 1999