

立法會
Legislative Council

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seen by the Administration)

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Bills Committee on Chinese Medicine Bill

Minutes of meeting
held on Thursday, 10 June 1999 at 4:30 pm
in Conference Room A of the Legislative Council Building

Members Present : Prof Hon NG Ching-fai (Chairman)
Hon David CHU Yu-lin
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Dr Hon Philip WONG Yu-hong
Hon Ambrose LAU Hon-chuen, JP
Hon CHOY So-yuk

Members Absent : Hon HO Sai-chu, JP
Hon Cyd HO Sau-lan
Hon Michael HO Mun-ka
Hon LEE Kai-ming, JP
Hon Ronald ARCULLI, JP
Hon YEUNG Yiu-chung
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

Action

Miss Miranda NG
Senior Assistant Law Draftsman, Department of Justice

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

Attendance by : Item I
Invitation

Preparatory Committee on Chinese Medicine

Dr Daniel C W TSE, JP
(Chairman)

Mr TAM Ling-kwan

Professor Sarah HUI Sui-chun

Professor YEUNG Hin-wing

Ms Mariana CHO Chi-on

Mr Paul FAN Chor-ho, JP

Dr KO Wing-man

Item II

Chinese University of Hong Kong

Professor Joseph C K LEE

Professor Jin-Ling TANG

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

Action

The Chairman welcomed the representatives of the Preparatory Committee on Chinese Medicine (PCCM) and the Chinese University of Hong Kong (CUHK) to the meeting.

I. Meeting with the chairman and members of the PCCM
(LC Paper Nos. CB(2)2238/98-99(01) and CB(2)2260/98-99(01))

2. At the Chairman's invitation, Dr Daniel C W TSE, Chairman of the PCCM, explained to members the stance of the PCCM and the rationale behind its recommendations on the criteria for exemption. He said the PCCM considered that the registration of Chinese medicine practitioners should be based on the following criteria -

- (a) It should be able to ensure professional standard in order to safeguard public safety;
- (b) It should have credibility and be accepted by the community and the public; and
- (c) It should be accepted by the Chinese medicine profession.

3. Dr TSE said the PCCM noted that as Hong Kong did not have formal university training in Chinese medicine in the past, many Chinese medicine practitioners had accumulated experience through apprenticeship or application of knowledge handed down from ancestors. Therefore, the PCCM recommended that in assessing the qualifications of existing Chinese medicine practitioners, more weight should be given to the factor of experience. For this reason, it was the PCCM's consensus that Chinese medicine practitioners who satisfied the Practitioners Board that they had continuously been practising Chinese medicine in Hong Kong for 15 years or more immediately preceding 3 January 2000 would be exempted from the Licensing Examination and the registration assessments. Details of the procedures for verification of the practising experience claimed by applicants, however, would be worked out by the future Chinese Medicine Council.

4. Dr TSE said the PCCM was of the view that the statutory regulatory system for the Chinese medicine profession should be implemented on an incremental basis and it should not affect the livelihood of the existing Chinese medicine practitioners. In the long run, the PCCM supported that newcomers should be required to pass the Licensing Examination in order to join the profession.

5. On the interface issue between practising Chinese medicine and practising western medicine, Dr TSE said the PCCM was of the view that the two kinds of medicine could actually complement one another. In the treatment of patients, a

Action

Chinese medicine practitioner should put the welfare of patients first and where necessary refer the patients to the appropriate health care professionals for consultation. As it might involve legislative amendments to the existing ordinances to enable such referrals to be made by Chinese medicine practitioners, the PCCM suggested that the Chinese medicine profession and other health care professions should discuss the matter in order to reach a consensus on their respective scopes of practice and their interface.

6. Mr TAM Ling-kwan of the PCCM explained that the transitional arrangements were proposed having regard to the fact that there was no formal university training in Chinese medicine in Hong Kong in the past. Therefore, it would be impractical to require the existing Chinese medicine practitioners to hold particular qualifications or to pass formal examinations in order to get registered. However, the PCCM was of the view that a Chinese medicine practitioner who had practised for 15 years or more and on a full-time basis should be considered to have enough substantial experience for exemption from the Licensing Examination.

7. Miss CHAN Yuen-han asked what would be considered as valid evidence to prove the practising experience of an applicant for registration. In response, Mr TAM Ling-kwan said the following information should be submitted by an applicant to the Practitioners Board to support his application for registration -

- (a) documents issued by the applicant's employer certifying the number of years of practice of the applicant, together with copies of the commercial registration certificates of the employer;
- (b) employment record of the applicant with any educational institutes of Chinese medicine; or
- (c) documents issued by registered associations of Chinese medicine practitioners certifying the years of practising experience of the applicant.
- (d) In the cases of Chinese medicine practitioners who were self-employed, they could provide tax returns, commercial registration certificates and other records of their practice.
- (e) The PCCM did not recommend the Practitioners Board to accept reference letters provided by individuals to certify the practising experience of an applicant. Such letters were valid only if they were issued by established organizations.

Mr TAM said the details of the requirements had to be worked out by the future Practitioners Board.

8. Miss CHAN Yuen-han hypothesized a case of an owner of a Chinese medicine

Action

shop who had at first registered both as the owner and the Chinese medicine practitioner of the shop. Later, he hired another Chinese medicine practitioner to provide consultation service in his shop so that the owner could concentrate on his other businesses, and ever since then the owner had hardly practised Chinese medicine any more. She said that this example showed that a commercial registration certificate alone could not really prove the practising experience of the certificate holder. In response, Mr TAM said that the Practitioners Board should not only accept one single piece of evidence, such as a commercial registration certificate, to prove the practising experience of an applicant. Instead, other supporting documentary proof was also required. He emphasized that the Practitioners Board should verify the practising experience of applicants in a very stringent way and it must look at every arbitrary case very carefully.

9. Mrs Selina CHOW questioned how to ensure that those who had practised for 15 years or more were really qualified for registration and the details of the proposed registration assessments. In particular, she wanted to know the criteria that the PCCM would recommend to be used for determining what qualifications in Chinese medicine practice would be considered as "acceptable to the Practitioners Board" under clause 94(1)(b)(ii). In response, Dr Daniel C W TSE said the PCCM generally felt that an applicant who had attended training in Chinese medicine for 1 000 hours or more should be considered as possessing "acceptable academic qualification". He explained that this was proposed taking into account the background of training in Chinese medicine in Hong Kong. He took the view that the way to ensure the standard of the registered Chinese medicine practitioners was by scrutinizing very carefully every application for registration and the evidence submitted. Mr TAM Ling-kwan added that as there would be a code of practice to regulate the practice of the Chinese medicine profession and a disciplinary committee formed under the Chinese Medicine Council, there should be adequate safeguards to protect public health. In response to Mrs CHOW's further enquiry, Mr TAM Ling-kwan said he believed that there would be a special team under the Chinese Medicine Council to work out the details, such as drawing up a list of recognized training institutes of Chinese medicine. Dr Daniel C W TSE added that the applicants should be required to submit detailed documents to prove their qualifications such as their examination and attendance records. He pointed out that in considering whether an applicant could meet the requirements under clause 94(1)(b) and sit for the registration assessment, more weight would be given to his experience in practising Chinese medicine rather than to his qualifications.

10. Mr TAM Ling-kwan said the PCCM was of the view that there should be a board of examiners from within and outside Hong Kong to be responsible for conducting the registration assessments. He explained that the purpose of the assessments would be to test candidates on their knowledge in the general practice of Chinese medicine and in any streams they had specialized. In response to members' enquiries, Dr Daniel C W TSE said that there was no consensus within the PCCM as to whether the registration assessment or the Licensing Examination would be more

Action

difficult.

11. Dr Philip WONG Yu-hong enquired about the format of the Licensing Examination. Dr Daniel C W TSE replied that the details would be worked out by the Practitioners Board. However, the PCCM was of the view that the Examination should seek to test candidates' knowledge in all aspects of Chinese medicine, and that expertise from within and outside Hong Kong should be invited to set questions for the Examination. Professor Sarah HUI Sui-chun added that the PCCM had initially proposed that the Licensing Examination should last for two and a half days comprising 19 to 21 examination papers. Both clinical and written examinations would be included. The PCCM had also suggested that reference should be made to the examinations on Chinese medicine conducted by the universities of traditional Chinese medicine on the Mainland.

12. In reply to Miss CHAN Yuen-han's enquiry, Dr Daniel C W TSE said that during the transitional period, applicants who had learnt Chinese medicine by self-studies or by attending evening schools should not be prevented from taking part in the Licensing Examination. As regards the length of transitional period, Deputy Secretary for Health and Welfare (1) (DSHW1) said that the Administration had to further deliberate on the matter but he reckoned that it would be five to eight years.

13. Mrs Selina CHOW commented that during the transitional period, there should be a mechanism in place to ensure that those listed Chinese medicine practitioners who failed to meet the registration requirements all enrolled in formal training courses on Chinese medicine. She said that the Administration should take measures to prevent unqualified Chinese medicine practitioners from taking advantage of the transitional arrangements and practised during the period without any real intention to study to acquire the required qualifications.

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14. Miss CHOY So-yuk sought the views of the PCCM members on the proposal submitted by a deputation suggesting that the practising experience of an applicant obtained outside Hong Kong should also be accepted for registration purpose. In reply, Dr Daniel C W TSE said the PCCM was of the view that only the experience of practising Chinese medicine in Hong Kong should be counted. Mr TAM Ling-kwan added that the PCCM had also reached a consensus that any Chinese medicine practitioners on the Mainland who wanted to practise in Hong Kong would have to pass the Licensing Examination first.

15. Dr LEONG Che-hung declared interest as a member of the PCCM. He asked whether the Practitioners Board would submit to the Legislative Council its consideration criteria used to assess the claims of an applicant in respect of his practising experience. In addition, Miss CHAN Yuen-han requested the PCCM to explain how the proposed registration system could achieve credibility and be accepted by the community and the public. In response, Dr Daniel C W TSE said that this was one of the criteria adopted by the PCCM in recommending the

Action

registration system. He explained that the registration requirements must be generally accepted by the community and the public in order to ensure credibility of the new registration system. He recalled that when the recommendations of the PCCM were published for public consultation, they were generally accepted. Professor YEUNG Hin-wing of the PCCM agreed with members that registration should be based on the professional standard demonstrated by the applicant. He informed members that an outline of the syllabus for the Licensing Examination was set out in Appendix 7 of the report of the PCCM.

16. Miss CHAN Yuen-han asked the views of the PCCM members on the practice of acupuncture by other health professionals in their treatment of patients. In response, Dr Daniel C W TSE said he noted that some physiotherapists had been practising acupuncture which was not based on the theories of traditional Chinese medicine. He considered that their practice, including their use of this kind of acupuncture, should be regulated by their registration board. If they were found practising acupuncture which was based on the theories of Chinese medicine, they would be regarded as practising Chinese medicine and be obliged to meet the registration requirements set out in the Bill. Then the standard of their practice of Chinese medicine would have to be regulated by the Chinese Medicine Council.

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17. With reference to the submission from the University Grants Committee (UGC) (LC Paper No. CB(2) 1778/98-99 (03)), Dr Daniel C W TSE considered that the UGC was taking a narrow and biased approach towards the role of Chinese medicine in Hong Kong's health care system. He opposed that the system should continue to be dominated by western medicine. He also pointed out that the problem of oversupply of doctors in Hong Kong had long existed and had nothing to do with the training of Chinese medicine practitioners. Dr LEONG Che-hung took the view that the Administration should review the role played by Chinese medicine in the health care system, and the supply/demand of medical doctors and Chinese medicine practitioners to avoid waste of resources.

II. Meeting with Professor Joseph C K LEE and Professor TANG Jin-ling of the CUHK

(LC Paper No. CB(2)2259/98-99(01))

18. Professor Joseph C K LEE, Dean of the Medical Faculty of the CUHK, said he accepted the proposals contained in the Bill. However, he was concerned about the scope of practising Chinese medicine and its interface with western medicine. He did not oppose the use of western medical instruments by Chinese medicine practitioners. However, he said it must be ensured that they had received the appropriate training for the use. He considered that it would be purposeless for them to use such instruments to confirm diagnosis if afterwards they were not capable of applying appropriate and prompt treatments to patients due to the lack of training. Professor LEE was also worried that there was inadequate understanding about the toxicology of Chinese

Action

medicines as only limited information on this aspect had been collected by the clinical trials conducted so far for Chinese medicines. He suggested that there should be a mechanism put in place to prevent the misuse of potentially dangerous Chinese medicines.

19. Referring to his submission, Professor Jin-ling TANG, Associate Professor of Epidemiology and Community Medicine of the CUHK, expounded his views on the importance of adopting an evidence-based approach for the testing of Chinese medicines and on the need to conduct clinical trials to prove the efficacy of Chinese medicines. He also elaborated on the issues of concern in testing Chinese medicines. In response to members' enquiries, Professor Joseph C K LEE informed members that there were laboratory tests being conducted by the research staff of the HKCU to prove the efficacy of Chinese medicines.

20. Mrs Selina CHOW was concerned about the requirement under clause 129 of conducting clinical trials and medicinal tests for Chinese medicinal products which applied for registration. She reiterated that the manufacturers/traders of proprietary Chinese medicines considered that the requirement was unduly harsh to them and it might hinder the development of Chinese medicine in Hong Kong. In response, Dr KO Wing-man, who was also a member of the PCCM, said he agreed that in the long history of Chinese medicine, people had already gained some knowledge on which Chinese medicines were potent and which were not. To address the concerns of the sector and to facilitate the development of Chinese medicine, Dr KO suggested that the Administration should consider very carefully under what circumstances a new proprietary Chinese medicine would be required to go through a clinical trial in order to get registered.

21. Mrs Selina CHOW conveyed the concerns of the sector about the division of the intellectual property right of a proprietary Chinese medicine between the university which invented the product and the trader who invested in manufacturing the product. The Chairman said that as far as he knew, the right belonged to the university which invented the product. However, traders who wanted to invest in developing and manufacturing the medicine could bargain with the university to share the ownership of the intellectual property right.

22. The Chairman thanked the deputations for attending the meeting.

III. Date of the next meeting

23. Members agreed to schedule the next meeting for 15 June 1999 at 8:30 am to proceed with clause-by-clause examination of the Bill.

24. The meeting ended at 6:40 pm.

Action

Legislative Council Secretariat

7 December 1999