

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Bills Committee on Chinese Medicine Bill

Minutes of meeting
held on Thursday, 17 June 1999 at 10:45 am
in the Chamber of the Legislative Council Building

Members Present : Prof Hon NG Ching-fai (Chairman)
Hon HO Sai-chu, JP
Hon Cyd HO Sau-lan
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Dr Hon LEONG Che-hung, JP
Dr Hon Philip WONG Yu-hong
Hon YEUNG Yiu-chung
Dr Hon TANG Siu-tong, JP
Hon CHOY So-yuk

Members Absent : Hon David CHU Yu-lin
Hon Michael HO Mun-ka
Hon LEE Kai-ming, JP
Dr Hon LUI Ming-wah, JP
Hon Ronald ARCULLI, JP
Hon CHAN Yuen-han
Hon Ambrose LAU Hon-chuen, JP
Hon SZETO Wah
Hon LAW Chi-kwong, JP

Public Officers Attending : Dr P Y LAM
Deputy Director of Health

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

The Chairman welcomed representatives of the Administration to the meeting.

I. Progress of work and election of Acting Chairman

2. Members discussed the progress of deliberations on the Bill and agreed to aim at completing scrutiny of the Bill before the end of the current LegCo session.
3. As the Chairman would be away from Hong Kong for a few days for attendance at the National Peoples' Congress in Beijing starting from 22 June 1999, Mr HO Sai-chu was elected Acting Chairman for the period of the Chairman's absence.

II. Clause-by-clause examination

Clause 8 - Temporary members

Clause 9 - Disqualification

4. Members had no comment on the above clauses.

Clause 10 - Council secretary and legal adviser

5. Responding to Dr LEONG Che-hung, Deputy Director of Health (DDH) said that the secretary of the Chinese Medicine Council (CMC) would be filled by staff transferred from the Department of Health (DH) and the Legal Adviser could be

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appointed from either the public or the private sector.

Clause 11 - Functions of Council

6. Dr LEONG Che-hung enquired whether the standards and conduct required of Chinese medicine dispensers should be specified under the functions of the CMC. Assistant Director of Health (Traditional Chinese Medicine) (ADH(TCM)) clarified that the definition of “trade of Chinese medicines” in clause 2 covered dispensers and sub-clause (1)(c) would serve the purpose.

III. The Chinese Medicine Practitioners Board and the Chinese Medicines Board

Clause 12 - Establishment of boards

7. Members had no comment on the above clause.

Clause 13 - Composition of Practitioners Board

Clause 14 - Composition of Medicines Board

8. Mrs Selina CHOW pointed out that Chinese medicines traders and manufacturers had asked for an additional seat on the Chinese Medicine Practitioners Board (the Practitioners Board), in line with the composition of the Chinese Medicines Board (the Medicines Board) where two seats were assigned to representatives of Chinese medicine practitioners. In view of the wide varieties of Chinese medicines and their characteristics, she opined that a single representative on the Practitioners Board might not be able to fully reflect the views of the traders and manufacturers.

9. DDH responded that the composition was proposed having regard to the knowledge of Chinese medicine practitioners in the use of Chinese medicines. As regards comparison with similar set-ups for western medicine, Dr LEONG Che-hung pointed out that since the Chinese medicine trade comprised mainly businessmen and was not a professional organization like that of pharmacists, a direct comparison with the composition of similar institutions in western medical practitioners and medicines was not appropriate.

10. Dr LEONG Che-hung, Mr HO Sai-chu, Dr Philip WONG and Mr YEUNG Yiu-chung shared the view that there should be no change to clause 13(d). In reply to Mrs Selina CHOW, ADH(TCM) clarified that in response to the views of the trade, the composition of the CMC had been enlarged to 19, an increase of two seats to accommodate an additional representative from both the trade of Chinese medicines and Chinese medicine practitioners.

11. Responding to Miss Cyd HO, Principal Assistant Secretary for Health and

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Welfare (Medical) 1 (PASHW(M)) clarified that the chairman of the Practitioners Board would most likely be a Chinese medicine practitioner from the CMC and the two public officers (clause 13(b)) would be officers from the DH or the Health and Welfare Bureau. In response to Miss HO's request, PASHW(M) agreed to add "or scientific research" after "educational" in clause 14(b)(iv) in respect of the Medicines Board.

12. In answer to Dr LEONG's question, DDH explained that the chairman of the Medicines Board would be the Director of Health in order to safeguard public health and safety. He pointed out that the Pharmacy and Poisons Board in respect of western medicines was also chaired by the Director of Health.

Clause 15 - Appointment to boards

13. Noting the authorities of the Practitioners and Medicines Boards, Mrs Selina CHOW expressed concern about the selection of the right persons for the chairmanship. She urged the Administration to set out the standards and procedures for the appointment of suitable persons to ensure support from the trade and the profession. Dr LEONG Che-hung commented that the two appointed chairmen must be well respected and accepted by the profession and the trade. He requested the Administration to give an undertaking that after the first term of office, the chairman of the Practitioners Board would be by election, instead of by appointment, similar to his earlier request in respect of the CMC. In response, DDH said that Government would review the arrangements before the expiry of the first term of office.

Clauses 16 - 23

14. Members noted that the provisions in the above clauses were in line with those for the CMC and had no comments.

Clause 24 – Functions of boards

15. Mrs Selina CHOW was concerned about the supervision of the operation of the two Boards, in particular in exercise of the Practitioners Board's statutory powers to approve and reject applications for registration as Chinese medicine practitioners. In this connection, Dr LEONG Che-hung enquired whether the authority and responsibility for de-registration and appeal rested with the CMC or the Practitioners Board.

16. DDH responded that the two Boards were executive organs for implementing the policies of the CMC and were responsible to the CMC in its day-to-day operation. As there were CMC members sitting on the two Boards, the CMC should be well aware of the on-going operation and performance of the two Boards. As regards disciplinary matters of registered practitioners, PASHW(M) said that the Practitioners Board would establish a disciplinary system to handle any alleged malpractice or

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misconduct of the profession. If a registered practitioner was found by the Practitioners Board to be guilty of an offence and was ordered permanent or temporary removal from the Register of the Chinese Medicine Practitioners, he may appeal to the Court of Appeal for a judicial review.

17. Responding to Mrs Selina CHOW's further enquiry, DDH said that appeals against the decisions of the Practitioners' Board on registration of Chinese medicine practitioners and the Medicines Board on suspension or revocation of licences were proposed to be made to the Court of Appeal and the Court of First Instance respectively. The proposals were made to ensure the professional independence of the two Boards and simplify the appeal process. He added that reference had been made to the mechanism adopted by other professions in dealing with disciplinary matters of its members. He stressed that the CMC had power to supervise the activities of the two Boards under clause 11 of the Bill. In response, Mrs CHOW requested that such power of the CMC to set directives for the Boards to observe be specified in the Bill. Senior Assistant Legal Adviser (SALA) suggested that the Administration could move an amendment to clause 11(2)(c) to make clear the need for the Boards to follow the CMC's directives. DDH agreed.

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IV. Committees of the Chinese Medicine Practitioners Board and the Chinese Medicines Board

Clause 25 – Committees of boards to be set up

Clause 26 – Registration Committee

18. Members had no comments on the above clauses.

Clause 27 – Examination Committee

19. Mrs Selina CHOW enquired about the statutory power of the Examination Committee in appointing examiners for the Chinese Medicine Practitioners Licensing Examination, the passing of which would qualify a person to apply for registration as a Chinese medicine practitioner in Hong Kong. She was concerned about the basis of selection of examiners and asked whether external examiners would be appointed to assess candidates' performance. In the absence of a group of experienced examiners at the start, she expressed concern about the consistence of standards and fairness of the assessment process.

20. SALA pointed out that the functions of the various committees were set out in Schedule 4. Under clauses 59 and 60, the Practitioners Board had the statutory power to set and conduct the examination and determine the standard of assessment and other related matters in respect of the Licensing Examination. Such powers were delegated to the Examination Committee in Schedule 5. As for the selection of examiners, PASHW(M) said that the Examination Committee would recommend a

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list of examiners for the Practitioners Board to endorse and that qualified Chinese medicine practitioners from outside Hong Kong would also be considered. Like examiners of public examinations, these examiners would make their assessment based on a set of criteria and their assessments would be subject to checking by members of the Examination Committee. They were required to declare interests in respect of individual assessments which might involve conflict of interest. The CMC would in due course prepare a set of guidelines for the purpose. In this connection, the Chairman requested the Administration to consider an amendment to clause 60 to expressly specify that the Practitioners Board could appoint external examiners for the Licensing Examination. Senior Assistant Law Draftsman (SALD) of the Department of Justice undertook to consider an amendment to this effect.

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Clause 28 – Disciplinary Committee of Chinese Medicine Practitioners

21. SALA pointed out that as there was only one lay member on the Disciplinary Committee and the quorum of a meeting as provided in clause 32(4) was three including a lay member, there might be operational difficulties caused by the absence of the lay member. To ease the possible difficulties envisaged and to improve the transparency of the Disciplinary Committee, Mr YEUNG Yiu-chung suggested to increase the number of lay members. The Chairman supported the suggestion. In response, the Administration agreed to propose a Committee Stage amendment (CSA) to increase the number of lay members to two.

Clause 29 – Chinese Medicines Committee

Clause 30 – Chinese Medicines Traders Committee

Clause 31 – Regulatory Committee of Chinese Medicines Traders

22. Similar to the composition of the Disciplinary Committee of Chinese Medicine Practitioners, the Administration would propose a CSA to increase the number of lay members on the Regulatory Committee of Chinese Medicines Traders to two.

23. Miss CHOY So-yuk enquired about the difference in functions between the Chinese Medicines Traders Committee and the Regulatory Committee of Chinese Medicine Traders and the reason for appointing two public officers to the Chinese Medicines Committee and the Chinese Medicines Traders Committee. In response to the first question, ADH(TCM) explained that while the former dealt with licensing requirements, the latter dealt with misconduct of traders concerned. As regards Miss CHOY's second question, DDH said that since the DH would have to play a major role in ensuring the Chinese medicines available in the market were fit for human consumption, there was a need for two public officers to be appointed to the Chinese Medicines Committee and the Chinese Medicines Traders Committee.

24. Mrs Selina CHOW observed that the trade had relatively fewer representatives on the above three committees compared to the number of Chinese medicine practitioners on the various committees under the Chinese Medicine Practitioners

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Board. DDH explained that from the angle of safeguarding public health, the Administration was unable to accede to the sector's request for more representatives with commercial background. He pointed out that the Medicines Board, which was the highest authority in respect of Chinese medicines, already had five members from the trade of Chinese medicines to represent their interests.

25. Mrs Selina CHOW asked whether the Administration would appoint a representative of the Agriculture and Fisheries Department (AFD) as one of the public officers of the three committees, as requested by the trade. The Administration replied that representatives of AFD would be invited to attend meetings of the committees for discussion of items which required their expert knowledge as need arose.

Clause 32 – Provisions applicable to Disciplinary Committee of Chinese Medicine Practitioners and Regulatory Committee of Chinese Medicines Traders _____

26. Members had no comments on the above clause.

27. The meeting ended at 1:00 pm.

Legislative Council Secretariat

16 December 1999