

**立法會**  
**Legislative Council**

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(These minutes have been  
seen by the Administration)

Ref : CB2/BC/18/98

**Bills Committee on Chinese Medicine Bill**

**Minutes of meeting**  
**held on Tuesday, 22 June 1999 at 8:30 am**  
**in Conference Room B of the Legislative Council Building**

**Members Present** : Hon HO Sai-chu, JP (Acting Chairman)  
Hon David CHU Yu-lin  
Hon Cyd HO Sau-lan  
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

**Members Absent** : Prof Hon NG Ching-fai (Chairman)  
Hon Michael HO Mun-ka  
Hon LEE Kai-ming, JP  
Dr Hon LUI Ming-wah, JP  
Dr Hon Philip WONG Yu-hong  
Hon Ambrose LAU Hon-chuen, JP  
Hon CHOY So-yuk  
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

Action

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

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**I. Date of additional meeting**

Members agreed to hold an additional meeting on Saturday, 26 June 1999 at 2:30 pm.

**II. Clause-by-clause examination**

2. The Chairman invited members to continue clause-by-clause examination of the Bill.

Clause 59 - Practitioners Board to set and conduct Licensing Examination

3. Dr LEONG Che-hung and Mrs Selina CHOW were concerned about the timetable for the conduct of the first examination for Chinese medicine practitioners. Principal Assistant Secretary for Health and Welfare (Medical) 1 (PASHW(M)) responded that since the Chinese Medicines Council (CMC) and its two main executive organs, namely, the Chinese Practitioners Board (the Practitioners Board) and the Chinese Medicines Board (the Medicines Board), had yet to be established, it was difficult to indicate a time frame for the examination at this stage. She stressed that Chinese medicine practitioners who was practising on 3 January 2000 and had applied to the Practitioners Board and paid a prescribed fee would be allowed to continue to practise, as provided under clause 90(1).

4. Senior Assistant Legal Adviser (SALA) pointed out the slight difference in meaning between "主辦" and "set" (which could mean setting the questions) in relation

Action

to overseeing the carrying out of an examination. Mrs Selina CHOW said that she accepted both versions. Senior Assistant Law Draftsman (SALD) explained that in line with the spirits of bilingual legislation, the Chinese version was not drafted as a translation of the English version and its meaning and implications for the purpose of the Bill should be interpreted in the context of Chinese language. Members accepted her explanation.

Clause 60 - Practitioners Board to determine syllabus, etc.

5. SALA pointed out that members had at a previous meeting agreed to include Chinese medicine practitioners and experts from outside Hong Kong in the panel of examiners for the Licensing Examination wherever practicable. SALD responded that the Administration would propose a Committee Stage amendment (CSA) to specify that the Practitioners Board should appoint examiners for the examination. She explained that the meaning of "appoint examiners" would include the appointment of qualified examiners from outside Hong Kong. Members agreed to allow some flexibility over the matter and asked the Administration to give assurance regarding the appointment of external examiners during the Second Reading debate on the Bill.

Clause 61 - Eligibility for undertaking Licensing Examination

6. Members had no comment on the above clause.

Clause 62 - Notification and review, etc. of results of Licensing Examination

7. Responding to Mrs Selina CHOW's concern about the transparency of the Licensing Examination, Deputy Director of Health (DDH) said that the passing rate would be published in the form of a press release while each candidate would be notified of his result.

8. SALA pointed out that sub-clause (3) had not specified a period for the processing of a candidate's request for a review of the result of the Licensing Examination notified to him. Members accepted that in anticipation of a large number of candidates taking the examination and the heavy workload of the Practitioners Board and its Examination Committee at the initial stage of operation, it was in practice difficult to set a time frame for completion of a review in the Bill. Members, however, were inclined that the Practitioners Board should, after establishing the necessary examination and review mechanisms, propose a reasonable period for such purpose. In this connection, members requested and the Administration agreed to add a provision that the Practitioners Board should conduct and complete any such review as soon as practicable.

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Clause 63 - Certificate of passing Licensing Examination

9. At members' request, SALD agreed to substitute the word "may" by "shall" in

Action

Adm the clause so that every person who had passed the Licensing Examination was entitled to a certificate.

Clause 64 - Restriction on number of attempts

10. Members had no comment on the above clause.

Clause 65 - Fees payable in respect of Licensing Examination

11. Mrs Selina CHOW opined that the prescribed fees for the examination should be reasonable. PASHW(M) responded that as provided in clauses 2 and 160, the Chief Executive in Council may set the prescribed fees by regulations which were subject to approval by the Legislative Council. SALA pointed out that clause 160(2)(b) provided that the levels of fees or surcharge as would be prescribed by regulation would not be limited by recovery of the costs incurred, and this drafting could enable the charging of fees for profit-making. SALD explained that although the basic principle was to recover expenditure incurred, there were inevitably variations and adjustments in the various cost estimates. Members accepted the provision on the ground that LegCo Members had the power to reject the proposed fee levels when the relevant subsidiary legislation was tabled in the Legislative Council.

Clause 66 - Review of decision in relation to Licensing Examination

12. Members had no comment to the above clause.

**Registration**

Clause 67 - Qualifications for registration under section 69

Clause 68 - Application for registration

Clause 69 - Registration

13. Members had no comment on the above clauses.

Clause 70 - Refusal of application for registration

14. Dr LEONG Che-hung expressed concern that there were only four reasons for refusal of application for registration, unlike in other legislation there was always a general provision to cover other conditions such as by reason of health. Mrs Selina CHOW and SALA also sought clarification as to the meaning of "not qualified to be registered" in sub-clause (1)(c).

Adm 15. PASHW(M) responded that an applicant could be rejected if he failed to meet the qualifications or comply with the requirements specified in clause 67. In response to members' request, she undertook to review whether there was a need to add "in accordance with clause 67".

Clause 71 - Cases involving previous conviction and professional misconduct

16. Dr LEONG Che-hung opined that it appeared strange that an applicant who had been convicted of an offence punishable with imprisonment or found guilty of professional conduct should be referred to the Disciplinary Committee for consideration of his application for registration. PASHW(M) responded that the arrangement was to ensure consistent standards of professional conduct among registered Chinese medical practitioners.

Clause 72 - Certificate of registration

Clause 73 - Certificate verifying registration and certificate of standing

17. Members had no comment on the above clauses.

Clause 74 - Title of registered Chinese medicine practitioners

18. Mrs Selina CHOW enquired whether a registered Chinese medicine practitioner could use "註冊中醫生" as his Chinese title. PASHW(M) confirmed in addition to that title, they could also use "註冊中醫師" or "註冊中醫" in accordance with their individual preference. Mrs CHOW held a strong view that the recognition of such title should be specified in clause 74(1). Other members expressed no strong view.

19. SALA invited members' attention to clause 74(2) which provided that a registered Chinese medicine practitioners may use the following addition or description to indicate his speciality in the practice of Chinese medicine -

- (a) general practice (全科);
- (b) acupuncture (針灸);
- (c) bone-setting (骨傷).

20. Dr LEONG Che-hung and Mrs Selina CHOW expressed concern about whether a Chinese medicine practitioner using one or two additional titles named in the sub-clause would be conceived as a "specialist" in the area(s) concerned. DDH pointed out that the use of additional titles could help members of the public to approach the appropriate Chinese medicine practitioners for the treatment they needed. In fact, many Chinese medicine practitioners were only providing services in one stream of practice, i.e., acupuncture or bone-setting treatment only. He believed that these practitioners would only choose to add one of the descriptions to show their specialized area of practice.

21. After discussion, Mrs Selina CHOW suggested and members agreed that the CMC should set out a set of guidelines on the use of additional titles and its

Action

presentation format for Chinese medicine practitioners to follow. DDH confirmed that the Preparatory Committee on Chinese Medicines had recommended that such additions or descriptions should be put in a bracket next to the title of "registered Chinese medicine practitioners".

Clause 75 - Privileges of registered and listed Chinese medicine practitioners

22. Members had no comment on the above clause. Responding to SALA, PASHW(M) said that whether the diagnosis or letters certified by Chinese medicine practitioners could be recognized for legal purposes such as granting of employees' leaves and calculation of employee compensations, etc., under the Employment Ordinance would require comprehensive consultation. DDH added that Chinese medicines practitioners understood the complexity of the issue and had not requested to incorporate a provision in the Bill to give such a legal recognition right from the start.

**Practising Certificate**

Clause 76 - Registered Chinese medicine practitioner not to practise without practising certificate

23. Dr LEONG Che-hung sought clarification as to the legislative intent of the phrase "specifying such conditions or restrictions as may be imposed" in clause 76(3), given that the applicants had declared a clean record and produced the required certificates or documents. PASHW(M) explained that the phrase provided the Registrar with the authority to impose conditions or restrictions on certain practising certificates which he considered necessary and appropriate. SALA suggested that the discretion of the Registrar to impose conditions or restrictions on a practising certificate could be specified in a separate sub-clause. In this connection, the Chairman requested and the Administration agreed to consider redrafting of the sub-clause.

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Clause 77 - Cases involving previous convictions and professional misconduct

24. Members had no comment on the above clause.

Clause 78 - Currency of a practising certificate

25. In reply to Dr LEONG Che-hung, DDH said that the legislative intent of proposing a validity period of three years for a practising certificate was to reduce administrative workload and costs. He added that practising Chinese medicine practitioners had expressed support for the proposal. Responding to Dr LEONG's concern about any consequential effect on protection of public health, DDH said that holders of a practising certificate were required to report any offence and professional misconduct to the Registrar. He believed that a three-year validity period should not

Action

have adverse effects on public health and safety. The Chairman and Mr YEUNG Yiu-chung expressed support for the proposal.

Clause 79 - Obligations of practising certificate holders

26. Dr LEONG Che-hung enquired about the disciplinary actions for a Chinese medicine practitioner who did not report a convicted offence or disclose a professional misconduct to the Registrar. PASHW(M) responded that once reported and identified, the Practitioners Board would take appropriate disciplinary actions against him in accordance with its disciplinary powers as provided under clause 98. Responding to Miss Cyd HO, DDH said that inquiries into the conduct of a registered Chinese medicine practitioner could start as a result of a complaint being made to the Practitioners Board or otherwise.

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27. SALA suggested and members agreed that to facilitate enforcement, holders of a practising certificate should be required to give an immediate notice to the Registrar in case he had been convicted of an offence or found guilty of a professional misconduct as described in clauses 79(a) and 79(b). The Administration agreed to consider the suggestion.

Clause 80 - Deeming provision in relation to practising certificate

28. Members had no comment on the above clause.

29. The meeting ended at 10:50 am.

Legislative Council Secretariat

21 December 1999