

立法會
Legislative Council

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Bills Committee on Chinese Medicine Bill

Minutes of meeting
held on Thursday, 24 June 1999 at 10:45 am
in the Chamber of the Legislative Council Building

Members Present : Hon HO Sai-chu, JP (Acting Chairman)
Prof Hon NG Ching-fai (Chairman)
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
Hon Ambrose LAU Hon-chuen, JP
Hon CHOY So-yuk

Members Absent : Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon Michael HO Mun-ka
Hon LEE Kai-ming, JP
Dr Hon LUI Ming-wah, JP
Dr Hon Philip WONG Yu-hong
Dr Hon TANG Siu-tong, 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 invited members to continue clause by clause examination of the Bill from clause 81.

I. Clause-by-clause examination of the Bill

Clause 81 - Recovery of fees for practising certificates

2. Responding to Miss CHAN Yuen-han's enquiry, Deputy Director of Health (DDH) said that clause 81(1) empowered the Registrar to institute legal proceedings against a registered Chinese medicine practitioner (CMP) who had practised without a practising certificate. As regards the approximate period for removal of a CMP's name from the Register, DDH said that a medical doctor would normally be advised of the removal if he had failed to apply for the issue or renewal of a practising certificate six months after the due date.

Clause 82 - Continuing education in Chinese medicine

3. Mr YEUNG Yiu-chung enquired about the co-ordination of continuing education courses which would be accepted by the Chinese Medicine Practitioners Board (the Practitioners Board) for the purpose of meeting the requirement for renewal of a practising certificate. DDH explained that the Practitioners Board would liaise with local universities and continuing education institutions for accreditation of seminars or courses they organized for provision of continuing education in Chinese medicine. Mr Ronald ARCULLI pointed out that there were

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similar requirement of continuing education for renewal of practising certificates for other professions such as lawyers.

4. Responding to Miss CHOY So-yuk's enquiry, DDH said that the Practitioners Board could arrange for any person or educational institution to conduct an accredited continuing education course which would be open to all registered CMPs for enrolment.

Part VIII
Limited Registration

Clause 83 - Limited registration

5. Miss CHAN Yuen-han and Dr LEONG Che-hung expressed concern about possible abuses of the mechanism for limited registration. They pointed out that it appeared not difficult for scientific research institutions to take advantage of the mechanism to appoint CMPs from the Mainland or overseas countries to engage in local research projects which would inevitably involve clinical diagnosis and practice of Chinese medicine. If not properly regulated and supervised, these activities could substantially affect the interests of the 7 000 local CMPs. In this connection, Dr LEONG considered that a set of assessment standards would facilitate the work of the Practitioners Board and could ensure its consistency in approving applications for limited registration.

6. In response, Principal Assistant Secretary for Health and Welfare (Medical) 1 (PASHW(M)) said that the educational or scientific research institution concerned had to submit sufficient documents and relevant particulars of the person to be registered with limited registration. It also had to convince the Practitioners Board that the person would be engaged to perform predominantly clinical teaching or research in Chinese medicine for the institution. Assistant Director of Health (Traditional Chinese Medicine) (ADH(TCM)) supplemented that the Preparatory Committee on Chinese Medicines (PCCM) had agreed that the Practitioners Board should be the appropriate authority to consider and approve applications for limited registration. He added that the validity period of a limited registration could not exceed one year and the Practitioners Board could specify conditions and restrictions in relation to the limited registration. Senior Assistant Legal Adviser (SALA) pointed out that in relation to a similar provision for temporary registration in the Medical Registration Ordinance, four institutions were specified.

7. Dr LEONG Che-hung said that some members of the PCCM had expressed concern about the lack of definition of educational and scientific research institutions but the final decision was that it should be determined by the Practitioners Board. He was worried that such authority would exert much pressure on the Practitioners Board. DDH responded that many local CMP associations and educational institutions were involved in organizing and conducting courses and seminars on

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practice of Chinese medicine. Many of these organizations had a long history of operation. The Administration was inclined to give the future Practitioners Board more flexibility in screening these applications and to set the criteria for granting limited registration in the light of operational experience. In response to Dr LEONG's request, he agreed to consider the need for a provision requiring the Practitioners Board to publish from time to time in the Gazette a list of eligible educational and scientific research institutions from which applications for limited registration would be considered.

Clause 84 - Application for limited registration

Clause 85 - Approval of limited registration

Clause 86 - Limits of limited registration

8. Members had no comment on the above clauses.

Clause 87 - Certificate of limited registration

9. Dr LEONG Che-hung enquired about the following -

- (a) whether persons with limited registration were required to immediately report to the Council if he had committed an offence or professional misconduct and whether they would be subject to the same disciplinary actions as registered CMPs;
- (b) the punishment which would be imposed on the person with limited registration and the organizer of the project if he was found practising in another educational or scientific research institution; and
- (c) the appeal mechanism for an applicant whose application for limited registration was rejected by the Practitioners Board.

10. In response, SALD said that -

- (a) Persons with limited registration were subject to the same set of rules and regulations applicable to registered CMPs. A person who was found breaching a condition or conditions imposed by the Practitioners Board on his practice of Chinese medicine would be subject to appropriate disciplinary actions as set out in clauses 98(2)(e) and 98(3);
- (b) Persons with limited registration who willfully or falsely took or used any name, title, addition or description to practise Chinese medicine beyond the conditions and restrictions as imposed by the Practitioners Board committed an offence and was liable to a fine at level three and to imprisonment for six months as set out in clause 108(4); and

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- (c) Any person aggrieved by a decision of the Practitioners Board to refuse his application for limited registration may lodge an appeal to the CMC in writing within 14 days of the receipt of the notification of the decision (clause 97(1)).

11. Dr LEONG Che-hung sought clarification as to the responsibility of the educational or scientific research institution in case the person was found practising in another institution or on his own. In response, SALA said that whether the institution should share a legal responsibility would depend on individual circumstances. If the institution had not been involved in giving any false or misleading information and was unaware of the person's wrongdoing, it should not be held responsible.

Clause 89 - Provision relating to renewal of limited registration

12. Members had no comment on the above clause.

Part IX

Transitional arrangements for Chinese Medicine Practitioners

Clause 90 - List maintained by Practitioners Board

13. Mr Ronald ARCULLI referred to sub-clause (1)(a) and asked whether the date stated could be made more flexible. DDH explained that the date was set with reference to the registration criteria recommended by the PCCM. The Administration had confidence that the Practitioners Board would be able to compile and maintain a list of CMPs who were practising Chinese medicine on 3 January 2000.

14. SALA pointed out that it was unclear whether a CMP practising on a part-time basis on 3 January 1999 was eligible for inclusion on the list. PASHW(M) referred members to the definition of "practising Chinese medicine" in clause 2 which had not incorporated a requirement for full-time practice. She added that the CMC would consider each application on individual merits.

Clause 91 - Removal from the list

Clause 92 - Alternative qualifying requirements

15. Members had no comment on the above clauses.

Clause 93 – Exemptions from Licensing Examination

16. Prof NG Ching-fai referred to the proposal made by one deputation that prestigious CMPs from the Mainland should be allowed to practise in Hong Kong. He pointed out that allowing these world-renowned CMPs to practise in Hong Kong would greatly contribute to the development of Hong Kong into a scientific research centre for Chinese medicine. Mrs Selina CHOW agreed with Prof NG that the

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practice of Chinese medicine had a long and unique history of development, and a direct modelling on the practice of western medicine might not be appropriate. In this connection, she enquired about the views and recommendations of the PCCM on the subject.

17. DDH said that the PCCM had not specifically discussed the direction to be taken in respect of renowned CMPs from outside Hong Kong. There should be no problem if they were engaged to perform predominantly clinical teaching on research in Chinese medicine under limited registration. In view of the very large number of qualified CMPs in the Mainland and overseas countries, the PCCM was inclined to maintain the registration system as proposed and not to provide exemption for CMPs from outside Hong Kong. Prof NG Ching-fai pointed out that the PCCM had not considered the matter in relation to the development of Hong Kong into a centre for Chinese medicine and asked whether the proposal could be re-considered in the future, DDH said that the CMC would review the long-term strategies and direction for promoting the practice of Chinese medicine within its three-year term of office. The subject would be re-considered in the light of actual experience and developments in due course.

18. Mrs Selina CHOW considered that in respect of "a qualification in Chinese medicine practice acceptable to the Practitioners Board" as provided in clause 93(b)(ii), the CMC should set out the necessary particulars for implementation, including a schedule showing a list of qualifying courses and the provision of an appeal mechanism against a decision of the Practitioners Board. The Administration noted her view.

Clause 94 – Registration assessment

19. Mrs Selina CHOW raised similar concern about qualifications which would be accepted by the Practitioners Board as set out in clause 94(1)(b)(ii). She pointed out that it was necessary to exercise great care in setting the format for registration assessment, making it too easy or too difficult would create problems. The Administration took note of her view.

Clause 95 – Requirement to undertake Licensing Examination

Clause 96 – Notification and review, etc.

20. Members had no comment on the above clauses.

Part X

Appeals, Disciplinary Powers and Inquiries

Clause 97 – Appeals

21. Responding to Prof NG Ching-fai, DDH confirmed that the views of the Bills

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Committee in relation to the clause as expressed at previous meetings were under consideration.

Clause 98 – Disciplinary Powers of Practitioners Board

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22. Referring to sub-clause 2(b), Mrs Selina CHOW sought clarification as to the investigative and assessment mechanism for professional misconduct. PASHW(M) responded that a code of practice would be issued by the CMC for CMPs to observe and the proceedings for disciplinary inquiries would be established by subsidiary legislation. DDH supplemented that the Disciplinary Committee of CMPs was similar to the Preliminary Investigation Committee of the Medicine Council. SALA pointed out that the Bill had no provision regarding a code of practice but the functions of the Disciplinary Committee were set out in Part III of Schedule 4. Mrs Selina CHOW considered that the code of practice to be prepared should be mentioned in the speech to be made by the Secretary for Health and Welfare on resumption of the Second Reading debate on the Bill.

Date of next meeting

23. The Chairman informed members that the next meeting would be held on Friday, 25 June 1999 immediately after the House Committee meeting.

24. The meeting ended at 12:50 pm.

Legislative Council Secretariat

21 December 1999