

立法會
Legislative Council

LC Paper No. CB(2)560/99-00
(These minutes have been
seen by the Administration)

Ref : CB2/BC/18/98

Bills Committee on Chinese Medicine Bill

Minutes of meeting
held on Thursday, 27 May 1999 at 8:30 am
in Conference Room B of the Legislative Council Building

Members Present : Prof Hon NG Ching-fai (Chairman)
Hon Cyd HO Sau-lan
Hon Michael HO Mun-ka
Hon LEE Kai-ming, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Dr Hon Philip WONG Yu-hong
Dr Hon TANG Siu-tong, JP

Members Absent : Hon David CHU Yu-lin
Hon HO Sai-chu, JP
Hon YEUNG Yiu-chung
Hon Ambrose LAU Hon-chuen, JP
Hon CHOY So-yuk
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

Miss Miranda NG

Action

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. Internal Discussion

Proposed visit to the Guangdong Provincial Hospital of Traditional Chinese Medicine

Members discussed and agreed to pay a visit to the Guangdong Provincial Hospital of Traditional Chinese Medicine and to meet other parties concerned with regulation of Chinese medicine on Sunday, 13 June 1999. The Chairman said that should members wish to visit the Hong Kong Baptist University which provided degree courses in Chinese medicine, he could make arrangements.

II. Meeting with the Administration

*Submissions from the University Grants Committee (UGC) and the Hong Kong Dental Association (HKDA)
(LC Paper Nos. CB(2)1778/98-99(03) and CB(2)2084/98-99(03))*

2. Referring to paragraph 4 of the UGC's submission, Dr LEONG Che-hung agreed that medical manpower planning should be a matter of concern. He noted that there were already some 7 000 existing Chinese medicine practitioners and that the number would be further increased as a few local universities were now providing degree courses in Chinese medicine. Dr LEONG said that consideration should be given to the manpower planning of Chinese medicine practitioners to avoid oversupply of manpower and wastage of resources. Mrs Selina CHOW considered that this point was important and should be given due consideration. She suggested that the Education and Manpower Bureau (EMB) should follow it up.

3. Dr LUI Ming-wah took the view that institutionalized training in Chinese

Action

medicine practitioners was important to the development of Chinese medicine by providing students with more scientific and modernized training in Chinese medicine. He pointed out that as most of the existing Chinese medicine practitioners were not practising on a full-time basis; the impact brought to the market by the future graduates of Chinese medicine should be just minimal.

4. The Chairman said he noted that the concerns raised by the HKDA in its submission, such as the use of acupuncture and prescription of herbal medicines by the dental profession, were issues still being considered by the Bills Committee.

*Consequential amendments to existing ordinances arising from the proposed statutory regulation of Chinese medicine under the Chinese Medicine Bill
(LC Paper No. CB(2) 2084/98-99(04))*

5. Referring to the Administration's paper on the subject, Deputy Secretary for Health and Welfare 1 (DSHW1) briefed members on the proposed consequential amendments to be made to seven existing ordinances and/or some of their subsidiary legislation.

6. Miss Cyd HO Sau-lan enquired whether consequential amendments would be made to the Employment Ordinance to make the medical certificates issued by Chinese medicine practitioners acceptable for sick leave and insurance purposes. In response, DSHW1 said that such an amendment would be a policy issue and it was still being considered by the EMB. Miss Cyd HO Sau-lan considered that with the implementation of a statutory registration system for Chinese medicine practitioners, they should be authorized to issue medical certificates acceptable for sick leave or insurance purposes or else they were not given the right recognition. She considered that the said amendment should be made to the Employment Ordinance in parallel with the passage of the Bill. However, Dr LUI Ming-wah expressed reservation about the proposed amendment in view of the great variation in standards and qualifications of the existing Chinese medicine practitioners. He doubted whether they could all be entrusted to issue the medical certificates.

7. Dr LEONG Che-hung supported that the Administration should give priority to considering the issue. He took the view that registered Chinese medicine practitioners, like medical practitioners and registered dentists, should also be authorized to issue recognized medical certificates. He pointed out that the existing regulations of the Hong Kong Medical Council stipulated that a medical practitioner who abused the system of medical certificates could be subject to revocation of his licence. Dr Philip WONG Yu-hong considered that the same mechanism could be adopted to safeguard against abuses by Chinese medicine practitioners. Mr Michael HO Mun-ka said that he supported in principle the proposed amendment to be made to the Employment Ordinance and urged the Administration to follow up the matter.

8. DSHW1 said that the Health and Welfare Bureau (HWB) had been discussing the matter with the EMB for quite some time. However, he pointed out that there

Action

Adm

were some technical problems to be resolved first before the proposed policy could be adopted. He undertook to follow up the matter with the EMB.

Transitional arrangements for Chinese Medicine Practitioners

9. Mrs Selina CHOW said she respected the recommendations of the Preparatory Committee on Chinese Medicine (PCCM) that those Chinese medicine practitioners who had practised for 15 years or more could get registered without having to sit for the Licensing Examination. However, she was concerned whether the proposed number of years of practising experience could guarantee that the Chinese medicine practitioner concerned had really reached the required standard for registration. She therefore suggested to further sub-divide the Chinese medicine practitioners, who had been practising Chinese medicine for 15 years or more, into the following two groups -

- (a) "Enrolled Chinese medicine practitioners" for those who had not received any formal training in Chinese medicine. They could continue with their practice of Chinese medicine after passage of the Bill. However, should they want to get registered under the new regulatory system, they would have to upgrade themselves by acquiring the relevant qualifications to ensure that they met the minimum professional requirements; and
- (b) "Registered Chinese medicine practitioners" for those holding acceptable academic qualifications.

Adm

10. Dr LUI Ming-wah supported Mrs CHOW's suggestion and pointed out that it was most important to allow those who had been practising Chinese medicine for a long time to continue with their practice. Dr LEONG Che-hung agreed that no one should be put out of work because of passage of the Bill. However, he questioned how to draw a line between what could be done by the Chinese medicine practitioners of groups (a) and (b) as proposed and whether it was practicable to define their respective scopes of practice. To facilitate members' deliberations on the matter, he suggested that members of the PCCM should be invited to explain why the required length of practice for exemption from the Licensing Examination should be a minimum of 15 years of continuous practice. Alternatively, the Administration could provide the relevant details of the deliberations of the PCCM for members' information.

11. Mr Ronald ARCULLI suggested that the registration requirements could include that the applicant would have to provide the names of three to five registered Chinese medicine practitioners as reference. In response, DSHW1 said that Mr ARCULLI's suggestion could be one of the options. Additionally, the Practitioners Board might consider other evidence provided by the applicant such as evidence that could prove the applicant had all along been a member of an association of Chinese medicine practitioners. Mrs Selina CHOW considered that the Practitioners Board should provide clear guidelines on the kinds of evidence required to support the

Action

Adm

applications for registration. She further suggested that the Administration should set out the consideration criteria in subsidiary legislation as this could provide an opportunity for the sector to make comments. The Administration undertook to consider the suggestion. Dr LEONG Che-hung recalled that this proposal had actually been considered by the PCCM, which had not accepted it for the following reasons -

- (a) it would be difficult to set out all the consideration criteria and such a list could in no way be exhaustive;
- (b) any alteration to the list would have to be scrutinized by the Legislative Council if the criteria were to be set out in subsidiary legislation; and
- (c) there would in any case be consultation with the sector when the Practitioners Board was drawing up its code of practice.

However, both Miss Cyd HO Sau-lan and Mr Michael HO Mun-ka supported Mrs Selina CHOW's proposal as it could facilitate the profession to reflect their views to the authorities concerned when the relevant subsidiary legislation was being considered or discussed.

Use of titles by Chinese medicine practitioners

12. Miss Cyd HO Sau-lan commented that patients should be entitled to know the qualifications of a registered Chinese medicine practitioner from whom he went to seek treatment. Mr Michael HO Mun-ka shared the same view and made the point that patients should be informed as to whether the Chinese medicine practitioner was a listed or a registered one. Dr LEONG Che-hung agreed and considered that there should be some distinction in the name between a registered and a listed Chinese medicine practitioner by whatever ways of labelling them. However, Dr LUI Ming-wah pointed out that the different names of "registered Chinese medicine practitioners" and "listed Chinese medicine practitioners" might have a labelling effect on the latter deterring patients from consulting them. He suggested that the views of the profession should be sought. However, Miss CHAN Yuen-han took the view that patients would not mind seeing a listed Chinese medicine practitioner if he proved to be effective in the treatment of his patients. Assistant Director of Health (Traditional Chinese Medicine) (AD(TCM)) informed members that the PCCM was generally inclined to using the following titles for Chinese medicine practitioners during the transitional period -

- (a) "Registered Chinese medicine practitioners" for those who were able to meet the registration requirements and completed registration; and
- (b) "Chinese medicine practitioners" for those who were pending registration.

Action

He said that their views had been reflected in the Bill.

Mrs Selina CHOW took the view that the name of "listed Chinese medicine practitioner" mentioned in the Bill would be incomprehensible to the public. She supported that those who were not registered with the Practitioners Board could be called "中醫". She agreed that they should not be called "中醫士" as the name might cause confusion to the public.

Length of transitional period

13. Mrs Selina CHOW suggested that the listed Chinese medicine practitioners should be informed of the approximate transitional period allowed for them. This could facilitate them to plan ahead their schedule of studies to acquire the necessary qualifications for registration. In response, DSHW1 said that the period was preliminarily planned to be about five years after the implementation of the statutory registration system, and a notice of the end date would be promulgated at least one year in advance to inform the sector. He explained that the Administration had not decided on the length of the transitional period yet as it was necessary to know the standards of the existing Chinese medicine practitioners first after the first Licensing Examination was held. Nevertheless, he undertook to consider Mrs CHOW's suggestion of letting the listed Chinese medicine practitioners know well in advance of the length of transitional period to be given.

Adm

Conditions for renewal of practising certificates (Clause 76(2)(c))

14. Members were concerned about the requirement that renewal of practising certificates for registered Chinese medicine practitioners would be subject to, among others, attendance of continuing education in Chinese medicine as required by the Practitioners Board. In response, DSHW1 explained that these courses were refresher courses and it was not required that the participants had to pass any examinations on completion of the courses in order to apply for renewal of the practising certificates. Mr Michael HO Mun-ka and Dr LEONG Che-hung supported the arrangement which was a way to assure the public that the registered Chinese medicine practitioners had reached a minimum professional standard.

(As directed by the Chairman, there was an intermission of 10 minutes.)

Use of acupuncture by other health care professionals

15. Mr Michael HO Mun-ka said that he had some discussions with the relevant faculties of the Chinese University of Hong Kong (HKCU) and the Hong Kong Polytechnic University (HKPU). Based on the discussion with the faculties teaching physiotherapy in HKPU, he had learnt that there was a wide use of a kind of acupuncture, which was based on the theories of western medicine instead of traditional Chinese medicine, by existing physiotherapists. Also, there were international health organizations which had held seminars to explore this kind of

Action

acupuncture and published articles on the use of it in medical journals. He could see that there were actually two streams of acupuncture: one being a kind which was practised on the basis of the theories of Chinese medicine and the other one on the basis of western medicine. Therefore, he doubted whether it would still be practicable to authorize the future Chinese Medicine Council to assess the standards of the health care professionals, other than Chinese medicine practitioners, in their use of acupuncture as it might not be the kind based on traditional Chinese medicine. Members were also concerned about the possibility of creating a loophole in the law in such a way that a person who had not learnt acupuncture could still practise it as he could defend his action by claiming that he was practising an alternative kind of acupuncture based not on Chinese medicine which might render it outside the scope of regulation of this Bill. However, Mrs Selina CHOW considered that in the context under discussion, members should be only concerned about whether the Bill was able to prevent people from claiming themselves as Chinese medicine practitioners if they practised a kind of acupuncture based not on Chinese medicine. She opined that it was outside the purview of the Bills Committee to examine the use of this alternative kind of acupuncture by the other health care professionals as it should be the relevant registration boards to look into such cases.

16. Mr Michael HO Mun-ka said he had also discussed with Professor Joseph LI, Dean of the Medical Faculty of the HKCU. Mr HO suggested to invite representatives from the HKCU to brief members on the current position of the use of acupuncture which was not based on the theories of traditional Chinese medicine. After discussion, members agreed that the relevant bodies should be invited to the next meeting to explain the nature of this kind of acupuncture and the current position of its use. In addition, Mr Michael HO Mun-ka requested the Senior Assistant Legal Adviser and the Senior Assistant Law Draftsman to give legal opinions on whether or not the practice of this alternative kind of acupuncture by the other health care professionals would contravene the Bill.

Clerk
SALA
& Adm

III. Date of next meeting

17. Members agreed to schedule additional meetings as follows -

- (a) 3 June 1999 from 8:30 am to 10:45 am;
- (b) 10 June 1999 from 4:30 pm to 6:30 pm; and
- (c) 15 June 1999 from 8:30 am to 12:45 pm.

18. The meeting ended at 12 noon.

Action

7 December 1999