

LEGISLATIVE COUNCIL BRIEF

- Pharmacy and Poisons Ordinance
(Chapter 138)
- Medical Registration Ordinance
(Chapter 161)
- Midwives Registration Ordinance
(Chapter 162)
- Nurses Registration Ordinance
(Chapter 164)
- Radiation Ordinance
(Chapter 303)
- Supplementary Medical Professions Ordinance
(Chapter 359)
- Chiropractors Registration Ordinance
(Chapter 428)

MEDICAL AND HEALTH CARE (MISCELLANEOUS AMENDMENTS) BILL 2000

INTRODUCTION

At the meeting of the Executive Council on 4 January 2000, the Council ADVISED and the Acting Chief Executive ORDERED that the Medical and Health Care (Miscellaneous Amendments) Bill 2000 at **Annex A** should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

Background

2. We have identified a number of defects in the following Ordinances :-

- (a) Pharmacy and Poisons Ordinance (Chapter 138)
- (b) Medical Registration Ordinance (Chapter 161)
- (c) Midwives Registration Ordinance (Chapter 162)
- (d) Nurses Registration Ordinance (Chapter 164)
- (e) Radiation Ordinance (Chapter 303)
- (f) Supplementary Medical Professions Ordinance (Chapter 359)
- (g) Chiropractors Registration Ordinance (Chapter 428)

3. These Ordinances provide for the regulation of health care professionals, pharmaceutical products, irradiating apparatus and radioactive substances. The purposes of these Ordinances are set out in **Annex B**.

The Proposal

4. These defects may hamper the smooth operation of the regulatory schemes prescribed in the above Ordinances. We propose to rectify these defects by removing some out-dated provisions, streamlining the operation of the regulatory bodies, clarifying some existing ambiguities and rectifying some minor textual errors. These will enhance consistency among the relevant Ordinances. The proposed amendments are briefly described in the explanatory memorandum of the Bill. The more significant amendments are :-

- (a) Amending the Pharmacy and Poisons Ordinance to provide that regulations made by the Pharmacy and Poisons Board shall be subject to the approval of the Secretary for Health and Welfare and the negative, instead of positive, vetting by the Legislative Council, to help reduce the amount of administrative work;
- (b) Amending the Pharmacy and Poisons Ordinance and the Supplementary Medical Professions Ordinance (SMPO) so that the Hong Kong Branch of British Medical Association will no longer be required to nominate a member each to the Pharmacy and Poisons Board and the five Boards under the SMPO;
- (c) Amending the Nurses Registration Ordinance to provide that the result of an election of members to the Nursing Council of Hong Kong may be questioned by an election petition and to authorize the Council to make regulations in relation to the election petition;
- (d) Amending the Radiation Ordinance to enable the Radiation Board to transact its business by circulation of papers;
- (e) Amending the Chiropractors Registration Ordinance to provide that rules made by the Chiropractors Council shall be subject to the approval of the Secretary for Health and Welfare, in addition to the negative vetting of the rules by the Legislative Council; and
- (f) Amending the Chiropractors Registration Ordinance to provide that a registered chiropractor applying for the issue of or renewal of a practising certificate shall provide information as to whether

he/she has been convicted of a criminal offence or found guilty of professional misconduct.

The existing provisions which are being amended are at **Annex C**.

THE BILL

5. Clause 1 provides that after being enacted as an ordinance, the Bill shall come into operation on a day to be appointed by the Secretary for Health and Welfare.

6. Clauses 2 to 8 and the seven Schedules make miscellaneous amendments to the seven Ordinances as set out in paragraph 4 above.

LEGISLATIVE TIMETABLE

7. The proposed legislative timetable is –

Publication in the Gazette	7 January 2000
First Reading and commencement of Second Reading debate	19 January 2000
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Bill is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Bill has no human rights implications.

BINDING EFFECT

10. The amendments will not affect the current binding effect of the various Ordinances covered by the Bill.

FINANCIAL AND STAFFING IMPLICATIONS

11. There are no additional financial or staffing implications.

PUBLIC CONSULTATION

12. The relevant regulatory bodies have been consulted, and have raised no objection to the proposed amendments. Consultation with the public is not considered necessary as they are unlikely to be affected by the Bill.

PUBLICITY

13. Apart from this Legislative Council Brief, the Bill will be published in the Gazette on 7 January 2000.

ENQUIRY

14. For enquiries in relation to this Brief, please contact Mr Fletch CHAN, Assistant Secretary for Health and Welfare at 2973 8118.

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Health and Welfare Bureau
January 2000
File ref : HWB/M/21/7 Pt.2 (99)

LEGISLATIVE COUNCIL BRIEF

Pharmacy and Poisons Ordinance

(Chapter 138)

Medical Registration Ordinance

(Chapter 161)

Midwives Registration Ordinance

(Chapter 162)

Nurses Registration Ordinance

(Chapter 164)

Radiation Ordinance

(Chapter 303)

Supplementary Medical Professions Ordinance

(Chapter 359)

Chiropractors Registration Ordinance

(Chapter 428)

MEDICAL AND HEALTH CARE (MISCELLANEOUS AMENDMENTS) BILL 2000

Annexes

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|----------------|--|
| Annex A | Medical and Health Care (Miscellaneous Amendments) Bill 2000 |
| Annex B | List of Ordinances covered in this Bill and their major purposes |
| Annex C | Extract of the Ordinances to be amended |

MEDICAL AND HEALTH CARE (MISCELLANEOUS AMENDMENTS) BILL 2000

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A BILL

To

Amend the Pharmacy and Poisons Ordinance, the Medical Registration Ordinance, the Midwives Registration Ordinance, the Nurses Registration Ordinance, the Radiation Ordinance, the Supplementary Medical Professions Ordinance and the Chiropractors Registration Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Medical and Health Care (Miscellaneous Amendments) Ordinance 2000.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Health and Welfare by notice published in the Gazette.

**2. Amendment of Pharmacy and Poisons Ordinance -
(Schedule 1)**

The Pharmacy and Poisons Ordinance (Cap. 138) is amended as indicated in Schedule 1.

**3. Amendment of Medical Registration Ordinance -
(Schedule 2)**

The Medical Registration Ordinance (Cap. 161) is amended as indicated in Schedule 2.

**4. Amendment of Midwives Registration Ordinance -
(Schedule 3)**

The Midwives Registration Ordinance (Cap. 162) is amended as indicated in Schedule 3.

**5. Amendment of Nurses Registration Ordinance -
(Schedule 4)**

The Nurses Registration Ordinance (Cap. 164) is amended as indicated in Schedule 4.

**6. Amendment of Radiation Ordinance -
(Schedule 5)**

The Radiation Ordinance (Cap. 303) is amended as indicated in Schedule 5.

**7. Amendment of Supplementary Medical Professions
Ordinance - (Schedule 6)**

The Supplementary Medical Professions Ordinance (Cap. 359) is amended as indicated in Schedule 6.

**8. Amendment of Chiropractors Registration Ordinance -
(Schedule 7)**

The Chiropractors Registration Ordinance (Cap. 428) is amended as indicated in Schedule 7.

SCHEDULE 1

[s. 2]

AMENDMENT OF PHARMACY AND POISONS ORDINANCE

Item	Provision Affected	Amendment
1.	Section 3	<p>(a) In subsection (2) -</p> <p style="padding-left: 2em;">(i) in paragraph (g), add "and" at the end;</p> <p style="padding-left: 2em;">(ii) in paragraph (h), repeal "; and" and substitute a full stop;</p> <p style="padding-left: 2em;">(iii) repeal paragraph (i).</p> <p>(b) In subsection (3), repeal "The" and substitute "Subject to subsection (3A), the".</p> <p>(c) Add -</p> <p style="padding-left: 4em;">"(3A) Any member of the Board appointed under subsection (2) (f), (fa), (fb), (g) and (h) may resign by giving a notice in writing to the Chairman of the Board."</p>
2.	Section 8(1)	<p>(a) Repeal paragraphs (b) and (c).</p> <p>(b) Repeal paragraph (e) and substitute -</p> <p style="padding-left: 2em;">"(e) holds any diploma, certificate or qualification, and has satisfied the Board by examination or otherwise that he</p>

has the skill and experience in pharmacy equivalent to that possessed by a person to whom paragraph (a) or (d) relates."

3. Section 29(1) Repeal "Legislative Council" and substitute "Secretary for Health and Welfare".
4. Section 31(1)(a) Repeal "and (i)".

SCHEDULE 2

[s. 3]

AMENDMENT OF MEDICAL REGISTRATION ORDINANCE

Item	Provision Affected	Amendment
1.	Section 3(3)	Add "(db)," after "(da),".
2.	Section 7(3)	Repeal "consecutive".
3.	Section 20F(1A)	Repeal "(5)" and substitute "(4)".
4.	Section 20G(3)	Add "from the date of being notified" after "days".

5. Section
20N

(a) In subsection (2), repeal "in writing" and substitute -

"by a written notice served on him personally or sent by registered post to his registered or last known address".

(b) Repeal subsection (4) and substitute -

"(4) Within 1 month after receiving a request under subsection (3), the Education and Accreditation Committee shall -

(a) review its decision; and

(b) notify the registered medical practitioner concerned of its decision on the review by a written notice served on him personally or sent by registered post to his registered or last known address.".

6. Section

Add ", do any one or more of the following

- 21(1) things" after "discretion".
7. Section 21B(1) Add "of the Council or a lay assessor appointed under subsection (2)(f) (as the case may be)," after "member".
8. Section 25(3)
- (a) Add "or Specialist Register, as may be appropriate," after "from the General Register".
 - (b)
 - (i) Add "or Specialist Register, as may be appropriate," after "name to the General Register".
 - (ii) Add "or Specialist Register, as may be appropriate" after "applicant to the General Register".

SCHEDULE 3

[s. 4]

AMENDMENT OF MIDWIVES REGISTRATION ORDINANCE

Item	Provision affected	Amendment
1.	Section 14(3)	<ul style="list-style-type: none"> (a) Add ", on payment of the prescribed fee payable by the applicant," before "to restore". (b) Repeal "thereupon" and substitute ", on

receipt of such payment,".

2. Section Repeal "instruction" and substitute "training".

18(2)(b)(i)

3. Section 22 Add -

"(10)The secretary shall, upon application by the holder of a practising certificate which is then in force issued under subsection (4) and the payment of a prescribed fee payable by such person, issue to such person a certified copy of the original practising certificate.".

4. Section 23 (a) Add -

"(1A) Regulations made under subsection (1)(a) may prescribe different fees to be payable by different categories of midwives.".

(b) In subsection (3)(c), repeal "re- registration" and substitute "restoration".

SCHEDULE 4

[s. 5]

AMENDMENT OF NURSES REGISTRATION ORDINANCE

Item	Provision affected	Amendment
1.	Part II	In the heading, repeal “理管”。
2.	Section 3	In subsection (1), repeal “理管”。
3.	New	Add - <p style="text-align: center;">"3A. Questioning of election by election petition</p> <p style="text-align: center;">(1) The result of an election of members to the Council under section 3(2)(ca) may only be questioned by an election petition.</p> <p style="text-align: center;">(2) Matters relating to election petitions shall be provided for by regulations."</p>
4.	Section 4(1)(b) and (2)	Repeal "5" and substitute "7".
5.	Section 10A	Add - <p style="text-align: center;">"(2A) The secretary shall, upon application by the holder of a practising</p>

certificate which is then in force issued under subsection (2) and the payment of a prescribed fee payable by such person, issue to such person a certified copy of the original practising certificate."

6. Section 16A

Add -

"(2A) The secretary shall, upon application by the holder of a practising certificate which is then in force issued under subsection (2) and the payment of a prescribed fee payable by such person, issue to such person a certified copy of the original practising certificate."

7. Section 27

(a) Repeal subsection (1) and substitute -

"(1) (a) The Chief Executive in Council may make regulations prescribing the fees payable under this Ordinance.

(b) Regulations made under paragraph (a) may prescribe different fees to be payable by different categories of nurses."

- (b) In subsection (3) -
 - (i) in paragraph (c), repeal " re-registration and re-enrolment" and substitute "and restoration";
 - (ii) in paragraph (i), repeal "; and" and substitute -
 - ", including but not limited to -
 - (i) the qualifications of candidates, electors and subscribers for a nomination paper;
 - (ii) the particulars of any system of voting and counting; and
 - (iii) the determination of election results;"
 - (iii) add -
 - "(ia) the procedure and matters in relation to an election petition under section 3A, including but not

limited to -

- (i) the person who may present a petition;
- (ii) the person who may be the respondent to a petition;
- (iii) the grounds for questioning the result of an election by a petition;
- (iv) the person who may regulate the procedure of a petition;
- (v) the person who may hear and determine a petition;

and
(vi) the power to
validate acts done
pending the
determination of
the result of the
petition; and".

SCHEDULE 5

[s. 6]

AMENDMENT OF RADIATION ORDINANCE

Item	Provision Affected	Amendment
1.	Section 3	<p>(a) In subsection (3), add after "pleasure" - ", or may resign by giving a notice in writing to the Chairman of the Board".</p> <p>(b) In subsection (6), repeal "before" and substitute "arising at a meeting of".</p> <p>(c) Add - "(10) (a) The Board may transact any of its business by circulation of papers to all members without a meeting.</p>

- (b) Subject to paragraphs (c) and (d), a written resolution that is approved in writing by members of a number not less than that required to constitute a majority of the Board, shall be as valid and effectual as if it had been passed at a meeting of the Board by the votes of the members so approving the resolution.
- (c) Any member may, within a period that shall be specified in any paper being circulated, by notice in writing, request the Chairman of the Board to refer any particular item of the business in the paper to the next meeting of the Board.
- (d) Where a notice under paragraph (c) has been given to the Chairman of

the Board, any resolution that has been approved in writing under paragraph (b) by the members in relation to the item of business specified in the notice shall be void."

SCHEDULE 6

[s. 7]

AMENDMENT OF SUPPLEMENTARY MEDICAL PROFESSIONS ORDINANCE

Item	Provision Affected	Amendment
1.	Section 3	<p>(a) In subsection (1), add "subject to subsection (6)," before "consisting".</p> <p>(b) In subsection (1) (d), repeal ", whose terms of office shall run for 3 consecutive years, from the respective dates of their appointment".</p> <p>(c) Repeal subsections (2) to (4) and substitute -</p> <p style="padding-left: 40px;">"(2) Subject to subsections (3) and (4), the term of office of any member of the Council appointed under this section shall run for 3 consecutive years, from the date of his appointment, or such lesser</p>

period as the Chief Executive may appoint, and that member may, upon the expiry of his term of office, be reappointed.

(3) Any member of the Council appointed under this section or reappointed under subsection (2) may, before the expiry of his term of office, be removed from office by the Chief Executive for permanent incapacity or other sufficient cause (as to the existence of which the decision of the Chief Executive shall be final), and upon such removal, the term for which he was appointed or reappointed shall be deemed to have expired.

(4) Subject to subsection (5), any member of the Council may resign by giving a notice in writing to the Chairman of the Council.

(5) The Chairman of the Council may resign by giving a notice in writing to the secretary of the Council.

(6) If the office of Chairman

of the Council becomes vacant due to effluxion of time or as a result of resignation or otherwise, the Deputy Chairman of the Council shall act in his place pending the appointment of a new Chairman under subsection (1) (a); if the office of Deputy Chairman of the Council is also vacant, the secretary of the Council shall convene a meeting within 3 months of the occurrence of such vacancy for the purpose of electing a member of the Council to act in the place of the Chairman of the Council pending the appointment of a new Chairman under subsection (1) (a).

(7) The secretary of the Council shall preside at a meeting held under subsection (6) until the Chairman of the Council is elected under that subsection and assumes office, but the secretary of the Council shall not have an original or a casting vote.

(8) There shall be -

(a) a secretary; and

(b) a legal adviser,
to the Council who shall be appointed by the
Chief Executive."

2. Section 5

- (a) In subsection (1), repeal "For" and substitute "Subject to subsection (6), for".
- (b) In subsection (1) (c), repeal "on the nomination of the Hong Kong Branch of the British Medical Association".
- (c) Repeal subsections (2) to (4) and substitute -
 - "(2) Subject to subsections (3) and (4), the term of office of any member of a board appointed under this section shall run for 3 consecutive years, from the date of his appointment, or such lesser period as the Chief Executive may appoint, and that member may, upon the expiry of his term of office, be reappointed.
 - (3) Any member of a board appointed under this section or reappointed under subsection (2) may, before the expiry of his term of

office, be removed from office by the Chief Executive for permanent incapacity or other sufficient cause (as to the existence of which the decision of the Chief Executive shall be final), and upon such removal, the term for which he was appointed or reappointed shall be deemed to have expired.

(4) Subject to subsection (5), any member of a board may resign by giving a notice in writing to the Chairman of the board.

(5) The Chairman of a board may resign by giving a notice in writing to the secretary of the board.

(6) If the office of Chairman of a board becomes vacant due to effluxion of time or as a result of resignation or otherwise, the secretary of the board shall convene a meeting within 3 months of the occurrence of such vacancy for the purpose of electing a member of the board to act in the place of the Chairman of the board pending the

appointment of a new Chairman under subsection (1) (a).

(7) The secretary of a board shall preside at a meeting held under subsection (6) until the Chairman of the board is elected under that subsection and assumes office, but the secretary of the board shall not have an original or a casting vote.

(8) There shall be -

(a) a secretary; and

(b) a legal adviser,

to each board who shall be appointed by the Chief Executive."

3. Section 30 (1) (c) Repeal everything after "appointment in" and substitute "an institution in respect of which a grant is made directly or indirectly out of the general revenue; or".

SCHEDULE 7

[s. 8]

AMENDMENT OF CHIROPRACTORS REGISTRATION ORDINANCE

Item	Provision affected	Amendment
1.	Section 5(e)	Repeal "and renewal of registration".

2. Section 6(c) Add "subject to the approval of the Secretary for Health and Welfare," before "make".
3. Section 11 Repeal "or renewal of registration" wherever it appears.
4. Section 12
 - (a) Repeal subsection (2) and substitute -
 - "(2) A registered chiropractor may apply to the Secretary for the issue or renewal of a practising certificate.
 - (2A) An application under this section shall be accompanied by -
 - (a) the prescribed fee; and
 - (b) a declaration signed by the applicant stating whether, since the date of the last declaration to the like effect made by the applicant for the purposes of this subsection or that applicant's application for registration, the applicant has in Hong Kong or elsewhere -

- (i) been convicted of a criminal offence that is punishable with imprisonment;
and
- (ii) been found guilty of misconduct or neglect in a professional respect,

and, if the applicant has been so convicted or found guilty, the date, place and nature of each offence or incident of misconduct or neglect, as the case may be.

(2B) On receipt of an application that complies with this section, the Secretary shall issue or renew the practising certificate.

(2C) A practising certificate shall be in a form determined by the Council, and is subject to such conditions with respect to the practice of chiropractic as the Council may impose and are specified in the certificate."

(b) Repeal subsections (6), (8) and (9).

5. Section 13(5) Repeal "and the renewal of registration".
6. Section 16(2) Repeal "or renewal of registration" wherever it appears.
7. Section 17(3) Repeal "The" and substitute "Subject to the approval of the Secretary for Health and Welfare, the".
8. Schedule
 - (a) In section 1(2), repeal "Governor" and substitute "Chairman".
 - (b) In section 3(1), repeal everything after "next" and substitute a full stop.
 - (c) Add -
 - "3A. If the office of Chairman becomes vacant as a result of resignation or

otherwise, the Council shall elect a Chairman from among the members appointed under section 3(2) of this Ordinance.".

Explanatory Memorandum

The purpose of this Bill is to make miscellaneous amendments to the following Ordinances relating to medical and health care -

- (a) Pharmacy and Poisons Ordinance (Cap. 138);
 - (b) Medical Registration Ordinance (Cap. 161);
 - (c) Midwives Registration Ordinance (Cap. 162);
 - (d) Nurses Registration Ordinance (Cap. 164);
 - (e) Radiation Ordinance (Cap. 303);
 - (f) Supplementary Medical Professions Ordinance (Cap. 359);
 - (g) Chiropractors Registration Ordinance (Cap. 428).
2. The Bill contains the following provisions -
- (a) clause 1 specifies the short title of the proposed Ordinance and provides for the commencement of its provisions;
 - (b) clauses 2 to 8 are formal provisions that give effect to the Schedules to the proposed Ordinance.
3. Schedule 1 amends the Pharmacy and Poisons Ordinance (Cap. 138) by -
- (a) removing the Hong Kong Branch of the British Medical Association from being a nominator of a member to

the Pharmacy and Poisons Board (in this paragraph referred to as the "Board") (item 1(a));

- (b) providing that members of the Board who are not public officers may resign by giving a notice in writing to the Chairman of the Board (item 1(c));
- (c) repealing 2 obsolete provisions providing for qualifications required for the application for registration as a pharmacist (item 2(a));
- (d) providing that regulations made by the Board shall be subject to the approval of the Secretary for Health and Welfare and the scrutiny of the Legislative Council, instead of the approval of the Legislative Council (item 3).

4. Schedule 2 amends the Medical Registration Ordinance (Cap. 161) by -

- (a) providing that the Medical Council of Hong Kong (in this paragraph referred to as the "Council") may prohibit a person from taking the Licensing Examination if the person has taken any one part of the Licensing Examination 5 times and has failed each time, and that 5 times need not be consecutive (item 2);
- (b) providing that an appeal against a decision of the review sub-committee of the Licentiate Committee may be made by the person aggrieved by the decision within 14 days from the date of being notified of

- the committee's decision and not from the date of the decision (item 4);
- (c) providing that the Education and Accreditation Committee may give notice to a medical practitioner by way of personal service or by registered post (item 5(a) and (b));
 - (d) providing that the Council may make more than one disciplinary orders in any case (item 6);
 - (e) providing that the quorum of an inquiry shall include at least one lay member of the Council or one lay assessor (item 7);
 - (f) providing that a person whose name has been removed from the Specialist Register may apply to have his name restored (item 8).
5. Schedule 3 amends the Midwives Registration Ordinance (Cap. 162) by -
- (a) providing that a fee is payable for the application by a midwife to restore her name to the register of midwives (item 1);
 - (b) providing that the Midwives Council of Hong Kong shall issue a certified copy of a practising certificate upon application and payment of a prescribed fee (item 3).
6. Schedule 4 amends the Nurses Registration Ordinance (Cap. 164) by -
- (a) providing that the result of an election of members to the Nursing Council of Hong Kong (in this

paragraph referred to as the "Council") may only be questioned by an election petition (item 3);

- (b) increasing the quorum of a meeting of the Council from 5 to 7 members (item 4);
 - (c) providing that the Council shall issue a certified copy of a practising certificate upon application and payment of a prescribed fee (items 5 and 6);
 - (d) providing that the Council may, subject to the approval of the Secretary for Health and Welfare, make regulations in relation to the election of members to the Council and the election petition (item 7(b) (ii) and (iii)).
7. Schedule 5 amends the Radiation Ordinance (Cap. 303) by -
- (a) providing that members of the Radiation Board (in this paragraph referred to as the "Board") may resign by giving a notice in writing to the Chairman of the Board (item 1(a));
 - (b) providing that the Board may transact its business by circulation of papers (item 1(c)).
8. Schedule 6 amends the Supplementary Medical Professions Ordinance (Cap. 359) by -
- (a) providing that the Chairman of the Supplementary Medical Professions Council may resign by giving a notice in writing to the secretary of the Council, and the Deputy Chairman may act in his place. If the office of Deputy Chairman is also vacant, the members of the Council shall elect one of their

- numbers to act in the place of the Chairman (item 1(c));
- (b) removing the Hong Kong Branch of the British Medical Association from being a nominator of a member to a board of a supplementary medical profession (item 2(b));
 - (c) providing that the Chairman of a board of a supplementary medical profession may resign by giving a notice in writing to the secretary of the board, and the members of the board shall elect one of their numbers to act in his place (item 2(c)).
9. Schedule 7 amends the Chiropractors Registration Ordinance (Cap. 428) by -
- (a) providing that the registration of chiropractors need not be renewed (items 1, 3, 5 and 6);
 - (b) providing that rules made by the Chiropractors Council (in this paragraph referred to as the "Council") shall be subject to the approval of the Secretary for Health and Welfare and the scrutiny of the Legislative Council (items 2 and 7);
 - (c) providing that a registered chiropractor applying for the issue of or renewal of a practising certificate shall pay a fee and provide information as to -
 - (i) whether he has been convicted of a criminal offence that is punishable with imprisonment; and

- (ii) whether he has been found guilty of misconduct or neglect in a professional respect,
(item 4(a));
- (d) providing that where the office of the Chairman of the Council becomes vacant, the Council shall elect a Chairman among the members of the Council (item 8(c)).

Medical and Health Care (Miscellaneous Amendments) Bill 2000

Ordinances covered in this Bill

Pharmacy and Poisons Ordinance (Cap.138)

To provide for the practice of pharmacy through a system of registration and disciplinary control and to provide for the regulation of medicines and poisons through registration and controls on manufacture, import and sale of medicines and poisons.

Medical Registration Ordinance (Cap.161)

To regulate the practice of medicine and surgery through a system of registration and disciplinary control.

Midwives Registration Ordinance (Cap.162)

To regulate the practice of midwifery through a system of registration and disciplinary control.

Nurses Registration Ordinance (Cap.164)

To regulate the practice of nursing through a system of registration and disciplinary control.

Radiation Ordinance (Cap.303)

To control the import, export, possession and use of radioactive substances and irradiating apparatus and the prospecting and mining for radioactive minerals.

Supplementary Medical Professions Ordinance (Cap.359)

To regulate the practice of professions supplementary to medicine through a system of registration and disciplinary control. At present, this Ordinance regulates five groups of professionals: medical laboratory technologists, occupational therapists, radiographers, optometrists and physiotherapists.

Chiropractors Registration Ordinance (Cap.428)

To regulate the practice of chiropractic through a system of regulation and disciplinary control.

Medical and Health Care (Miscellaneous Amendments) Bill 2000**Pharmacy and Poisons Ordinance (Cap. 138)****3 The Pharmacy and Poisons Board**

(1) There shall be for the purposes of this Ordinance a Board to be called the Pharmacy and Poisons Board.

(2) The Board shall consist of-

- (a) the Director of Health; (Amended L.N. 76 of 1989)
- (b) (Repealed 58 of 1986 s. 3)
- (c) the Government Chemist;
- (d) the Chief Pharmacist of the Department of Health; (Amended L.N. 76 of 1989)
- (e) 1 medical officer in the Department of Health appointed by the Governor;
- (f) 1 legally qualified person appointed by the Governor to act as the legal adviser to the Board;
- (fa) 1 person qualified in pharmacology who is on the full time teaching staff of the University of Hong Kong nominated by the University of Hong Kong and appointed by the Governor; (Added 58 of 1986 s. 3)
- (fb) 1 person qualified in pharmacology who is on the full time teaching staff of The Chinese University of Hong Kong nominated by The Chinese University of Hong Kong and appointed by the Governor; (Added 58 of 1986 s. 3)
- (g) 3 registered pharmacists (not being public officers) nominated by the Pharmaceutical Society of Hong Kong and appointed by the Governor; and
- (h) 1 registered medical practitioner (not being a public officer) nominated by the Hong Kong Medical Association and appointed by the Governor; and
- ~~(i) 1 registered medical practitioner (not being a public officer) nominated by the Hong Kong Branch of the British Medical Association and appointed by the Governor.~~

(3) ~~The Subject to subsection (3A),~~ the members of the Board appointed by the Governor shall hold office for a period of 3 years from the date of their appointment or for such lesser period as the Governor may appoint.

(3A) Any member of the Board appointed under subsection (2)(f), (fa), (fb), (g) and (h) may resign by giving a notice in writing to the Chairman of the Board.

(4) There shall be a Secretary to the Board who shall be appointed by the Governor. (Added 31 of 1972 s. 2)

8 Qualifications for registration as pharmacists

(1) Subject to the provisions of this Ordinance, there may be registered as a pharmacist any person who-

- (a) holds a diploma in pharmacy of the University of Hong Kong;
- ~~(b) is duly registered as a pharmaceutical chemist or chemist and druggist with the Pharmaceutical Society of Great Britain;~~
- ~~(c) holds a certificate of a Commonwealth pharmaceutical institution which has entered into an agreement for reciprocity of registration with the Pharmaceutical Society of Great Britain;~~
- (d) has successfully completed a course of training and study and who has passed any examinations thereon that may have been prescribed by the Board; and
- ~~(e) holds any diploma or certificate, other than a certificate to which paragraph (c) refers, and who has satisfied the Board by examination or otherwise that he has the skill and experience in pharmacy equivalent to that possessed by a person to whom paragraphs (a) to (d) relate.~~
- (e) holds any diploma, certificate or qualification, and has satisfied the Board by examination or otherwise that he has the skill and experience in pharmacy equivalent to that possessed

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by a person to whom paragraph (a) or (d) relates.

(2) Notwithstanding anything contained in subsection (1), the Board may require any applicant for registration to pass such examinations as it may determine or to undergo such period of training as the Board may specify. (Replaced 50 of 1977 s. 4)

(3) For the purposes of conducting examinations on behalf of the Board, there shall be a committee of examiners consisting of the following persons-

- (a) 1 person qualified in pharmacology who is on the full time teaching staff of the University of Hong Kong or The Chinese University of Hong Kong and appointed by the Board; (Replaced 58 of 1986 s. 4)
- (b) the Government Chemist;
- (c) the Chief Pharmacist of the Department of Health; (Amended L.N. 76 of 1989)
- (d) 1 medical officer in the Department of Health appointed by the Board; and (Amended L.N. 76 of 1989)
- (e) 1 registered pharmacist (not being a public officer) appointed by the Board.

[cf. 1954 c. 61 ss. 3 & 4 U.K.]

29 Power to make regulations

(1) Subject to the approval of the Legislative Council Secretary for Health and Welfare and to section 31, the Board may make regulations-

- (a) prescribing the nature and scope of courses of training and study, and examinations to be completed by persons to qualify for registration as pharmacists, and the fees payable in respect of such courses and examinations;
- (aa) prescribing the form of practising certificate for a registered pharmacist and the fees to be paid on the issue of such certificate; (Added 50 of 1977 s. 6)
- (ab) the disposal of any fee paid or recovered under this Ordinance; (Added 50 of 1977 s. 6)
- (b) prescribing the form of certificate of registration as a pharmacist and the fees to be paid on the issue of such certificate and for the issue of duplicates of certificates of registration;
- (ba) prescribing the procedure to be followed in inquiries held by the Disciplinary Committee under the provisions of section 16; (Added 31 of 1972 s. 6)
- (bb) prescribing fees for furnishing, to any party to an inquiry referred to in paragraph (ba), a copy of any record of the inquiry; (Added 21 of 1992 s. 2)
- (bc) prescribing the fees to be paid on the issue of a certificate of good standing; (Added 68 of 1995 s. 30)
- (c) regulating the making and determination of applications under section 13 in respect of the registration of premises, providing for appeals and prescribing the form of any certificate of registration issued under that section; (Replaced 58 of 1986 s. 9)
- (ca) prescribing fees for the registration of premises under section 13 and for the retention of premises on the register of premises in each year subsequent to the year of first registration and upon a change of name, ownership or any other particulars relating to the premises; (Added 58 of 1986 s. 9)
- (cb) prescribing the form of logo under section 13A; (Added 58 of 1986 s. 9)
- (d) dispensing with or relaxing all or any of the provisions of sections 22, 27 and 28;
- (e) dispensing with or relaxing with respect to poisons any of the provisions of this Ordinance relating to the sale of poisons;
- (ea) exempting any article or substance from the provisions of this Ordinance; (Added 45 of 1975 s. 2)
- (f) prescribing the form of certificates to be given to persons to whom a poison included in Part I of the Poisons List may be sold, and specifying the class of persons authorized to make such certificates;
- (g) prescribing the form of a book to be kept for the recording of the sales of poisons in Part I of the Poisons List;
- (ga) regulating the making and determination of applications under section 25(1) in respect of

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- the entering of names on the list kept under that section and providing for appeals against refusals of such applications; (Added 50 of 1980 s. 7)
- (h) providing for the licensing of wholesale dealers in poisons and for appeals against any refusal, revocation or suspension of a licence for wholesale dealers in poisons under such regulations; (Replaced 50 of 1980 s. 7)
 - (ha) providing for the keeping of such registers or records by wholesale dealers in poison as may be prescribed; (Added 45 of 1975 s. 2)
 - (i) regulating and controlling the sale of poisons included in Part II of the Poisons List by listed sellers of poisons, prescribing fees for the making of entries in and alterations to the list of listed sellers of poisons, for the retention of the name of any person on that list for any year subsequent to that of the first entry, and for a change of ownership or address of the business;
 - (j) providing for the licensing of manufacturers and for appeals against any refusal, revocation or suspension of a licence for manufacturers under such regulations; (Replaced 50 of 1980 s. 7)
 - (ja) providing for the control of the manufacture of pharmaceutical products and poisons; (Added 45 of 1975 s. 2)
 - (k) providing for the regulation of the type of containers in which various poisons or classes of poisons may be stored or sold and for the labelling of containers in which such poisons are sold;
 - (l) providing for the regulating of the storage and transport of medicines and poisons;
 - (m) prescribing fees for the licensing of wholesale dealers in poisons and of manufacturers;
 - (n) (Repealed 96 of 1997 s. 41)
 - (o) generally providing for the regulating and controlling of the selling, purchasing, compounding and dispensing of poisons and medicines; (Amended 31 of 1972 s. 6)
 - (p) providing for the licensing of retail sellers of pharmaceutical products who are not authorized sellers of poisons or listed sellers of poisons;
 - (q) providing for the registration of pharmaceutical products manufactured in or imported into Hong Kong and for the payment of fees in respect thereof, and for appeals against any refusal, revocation or suspension of such registration under such regulations; (Replaced 50 of 1980 s. 7)
 - (qa) providing for the provisional registration of pharmaceutical products and the conduct of clinical trials on human beings and medicinal tests on animals, and for the issue of certificates and duplicate certificates and the payment of fees in respect thereof; (Added 50 of 1980 s. 7)
 - (qb) providing for the registration of persons carrying on business as importers or exporters of pharmaceutical products and for the payment of fees in respect thereof, and for appeals against any refusal, revocation or suspension of such registration under such regulations; (Added 50 of 1980 s. 7)
 - (r) prescribing a list of poisons, to be called the Poisons List, which list shall have 2 divisions to be known as Part I and Part II respectively.
- (1A) Any regulations made under subsection (1)(aa) may prescribe different fees to be payable by different categories of pharmacists. (Added 50 of 1977 s. 6)
- (2) A regulation made under this section may provide that a contravention thereof shall be an offence and may prescribe penalties for such offence not exceeding the penalties specified in section 34. (Added 45 of 1975 s. 2)

[cf. 1933 c. 25 s. 23 U.K.]

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31 Poisons Committee

(1) For the purposes of advising the Board on the classification and distribution of poisons in Part I and Part II of the Poisons List and matters relating to the control of the manufacture and distribution of poisons and pharmaceutical products, there shall be a Poisons Committee consisting of-

- (a) the registered medical practitioners appointed under section 3(2)(h) ~~and (i)~~; and
- (b) 5 other members of the Board appointed by the Board, including 2 of the members appointed under section 3(2)(g).

(2) In determining the distribution of poisons in Part I and Part II of the Poisons List the Board shall, after considering the advice of the Poisons Committee, have regard to the desirability of restricting to Part II substances which are in common use, or are likely to come into common use, and which it is reasonably necessary to include in the said Part II if the public are to have adequate facilities for obtaining them.

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Medical Registration Ordinance (Cap. 161)

PART II

THE MEDICAL COUNCIL OF HONG KONG

3 Establishment and composition of Council

(1) There shall be established within Hong Kong a Council to be called the Medical Council of Hong Kong. (Amended 25 of 1984 s. 10)

(2) The Council shall consist of-

(a)-(b) (Repealed 7 of 1996 s. 3)

(c) 2 registered medical practitioners to be nominated by the Director and appointed by the Governor; (Amended 25 of 1984 s. 10)

(d) 2 registered medical practitioners nominated by the University of Hong Kong and appointed by the Governor; (Amended 63 of 1982 s. 3)

(da) 2 registered medical practitioners nominated by the Chinese University of Hong Kong and appointed by the Governor; (Added 63 of 1982 s. 3)

(db) 2 registered medical practitioners to be nominated by the Hospital Authority and appointed by the Governor; (Added 68 of 1990 s. 24)

(e)-(f) (Repealed 7 of 1996 s. 3)

(g) 4 lay members to be appointed by the Governor; (Added 3 of 1988 s. 3)

(h) 2 registered medical practitioners nominated by the Academy of Medicine and appointed by the Governor; (Added 7 of 1996 s. 3)

(i) 7 registered medical practitioners who are members of the Hong Kong Medical Association and nominated in accordance with the regulations or procedures of the Association relating to the filling of offices under this paragraph and elected by the Council members of the Association in accordance with those regulations or procedures; (Added 7 of 1996 s. 3)

(j) 7 registered medical practitioners registered in Part I of the General Register and ordinarily resident in Hong Kong elected by all registered medical practitioners registered in Parts I and III of the General Register pursuant to an election held under the Election Regulation. (Added 7 of 1996 s. 3)

(Replaced 14 of 1960 s. 2)

(3) Subject to subsections (4) and (6), a member of the Council appointed under subsection (2)(c), (d), (da), ~~(db)~~, (g) or (h) shall hold office for a period of 3 years from the date of his appointment and, at the expiry of his period of appointment or of any period for which he is reappointed, shall be eligible for reappointment for further periods of 3 years each. (Amended 63 of 1982 s. 3; 3 of 1988 s. 3)

(3A) Subject to subsections (4) to (6), a member elected under subsection (2)(i) or (j), other than the first 14 members elected under subsection (2)(i) and (j) and a member elected to fill a vacancy caused by an elected member ceasing to be a member in accordance with subsection (4), (6) or (6A), shall hold office for 3 years from the date of notification in the Gazette of his having been elected, and shall be eligible for re-election. (Added 7 of 1996 s. 3)

(3B) Subject to subsection (5A), the Hong Kong Medical Association shall, within 3 months before the expiry of the period of office of a member of the Council holding office under subsection (2)(i), conduct an election to elect a person qualified under subsection (2)(i) to succeed that member. (Added 7 of 1996 s. 3)

(4)

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7 Council to set Licensing Examination

(1) The Council shall set an examination, called the Licensing Examination, the passing of which shows the achievement of a standard acceptable for registration, under section 8(1)(b), as a medical practitioner.

(2) Without prejudice to section 7A, the Council may impose such conditions as it thinks fit, being conditions which are relevant to the assessment or improvement of a person's professional knowledge and practice in medicine, surgery and midwifery which a person must comply with before the Council allows him to take the Licensing Examination or any part thereof.

(3) The Council may prohibit a person from taking the Licensing Examination if the person has taken any one part of the Licensing Examination 5 consecutive times and has failed each time.

(4) Subject to subsection (5) and such conditions as the Council thinks fit, the Council may exempt a person from taking any part of the Licensing Examination.

(5) The Council shall not exempt a person from taking any part or parts of the Licensing Examination in respect of medical knowledge unless the person satisfies the Council that he has substantial experience of the practice of medicine and surgery, or, as the case may be, medicine, surgery and midwifery.

(6) The Council may delegate any or all of its functions under this section to the Committee.

20F Appeals

(1) Any person aggrieved by a decision of the Licentiate Committee or of any sub-committee established by the Licentiate Committee made in pursuance of the respective powers conferred on them may appeal against the decision in accordance with this section and section 20G. (Replaced 7 of 1996 s. 22)

(1A) In the case of a decision of a sub-committee discharging any power or function under or by virtue of section 7(5)(4), the person aggrieved may, within 14 days of being notified of the sub-committee's decision, appeal against that decision to the Licentiate Committee. (Added 25 of 1984 s. 9.)

(1B) Upon the hearing of an appeal made under subsection (1A) the Licentiate Committee may confirm, vary or revoke the decision of the sub-committee. (Added 25 of 1984 s. 9.)

(2) In the case of a decision of the Licentiate Committee, including a decision under subsection (1B) but not a decision under section 20G(4), the person aggrieved may, within 14 days of being notified of the Committee's decision, appeal to the Council against that decision. (Amended 25 of 1984 s. 9; 7 of 1996 s. 22)

(3) Upon the hearing of the appeal the Council may confirm, vary or revoke the decision of the Licentiate Committee.

(4) The decision of the Council under subsection (3) shall be final.

20G Review etc. of decision of sub-committee of Licentiate Committee

(1) In the case of a decision of a sub-committee of the Licentiate Committee, the person aggrieved may, within 14 days of being notified of the sub-committee's decision, apply to the review sub-committee for a review of the sub-committee's decision.

(2) Upon the hearing of a review under subsection (1) the review sub-committee may confirm, vary or revoke the decision of the sub-committee.

(3) Any person aggrieved by a decision of the review sub-committee may, within 14 days from the date of being notified of the decision, appeal against that decision to the Licentiate Committee.

(4) Upon the hearing of an appeal the Licentiate Committee may confirm, vary or revoke the decision of the review sub-committee.

(5) The decision of the Licentiate Committee under this section shall be final.

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(6) In this section "review sub-committee" (覆核小組) means the sub-committee appointed under section 20E(2).

20N Complaints against specialists

(1) Where the Education and Accreditation Committee comes to the notice of any complaint or information relating to the suitability of a registered medical practitioner to have his name included in, or removed from, the Specialist Register, including but not limiting to anything about qualification, experience, or failure of the registered medical practitioner to comply with section 20L, the Committee may, after considering all the circumstances of the case before it-

- (a) invite the registered medical practitioner to give an explanation in writing or to appear before it personally;
- (b) dismiss the matter, with or without giving the registered medical practitioner an opportunity to explain under paragraph (a);
- (c) refer the matter to the Preliminary Investigation Committee, as it thinks appropriate, with or without giving the registered medical practitioner an opportunity to explain under paragraph (a);
- (d) with or without having given the registered medical practitioner an opportunity to explain under paragraph (a), recommend to the Council-
 - (i) where the registered medical practitioner's name is included in the Specialist Register, that the name of the registered medical practitioner be removed from the Specialist Register, permanently or for such period as the Committee recommends, with or without referring the matter to the Preliminary Investigation Committee at the same time; or
 - (ii) where the registered medical practitioner is applying for the inclusion of his name in the Specialist Register, that his application be rejected.

(2) After the Education and Accreditation Committee has decided to take any course of action under subsection (1)(b), (c) or (d), it shall notify the registered medical practitioner concerned ~~in writing~~ by a written notice served on him personally or sent by registered post to his registered or last known address.

(3) Within 14 days after receiving a notification under subsection (2), the registered medical practitioner may request, in writing and setting out the reasons relied upon, the Education and Accreditation Committee to review its decision.

~~(4) After receiving a request under subsection (3), the Education and Accreditation Committee shall review its decision and notify, in writing, the registered medical practitioner of its decision after the review within 1 month after receiving the request.~~

~~(4) Within 1 month after receiving a request under subsection (3), the Education and Accreditation Committee shall -~~

- ~~(a) review its decision; and~~
- ~~(b) notify the registered medical practitioner concerned of its decision on the review by a written notice served on him personally or sent by registered post to his registered or last known address.~~

(Added 7 of 1996 s. 24)

PART IV

INQUIRIES, DISCIPLINARY PROCEEDINGS, AND OFFENCES

(Amended 7 of 1996 s. 25)

21 Disciplinary powers of Council

(1) If, after due inquiry into any case referred to it by the Preliminary Investigation Committee, the

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Health Committee or the Education and Accreditation Committee in accordance with regulations made under section 33, the Council is satisfied that any registered medical practitioner-

- (a) has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment; (Amended 25 of 1984 s. 10)
- (b) has been guilty of misconduct in any professional respect; (Amended 33 of 1971 s. 2)
- (c) has obtained registration by fraud or misrepresentation; or
- (d) was not at the time of his registration entitled to be registered;
- (e) has breached a condition previously imposed under paragraph (iv); (Added 7 of 1996 s. 26)
- (f) is physically or mentally unfit to practise medicine, surgery or midwifery; or (Added 7 of 1996 s. 26)
- (g) where applicable, has procured his name to be included in the Specialist Register by fraud or misrepresentation, (Added 7 of 1996 s. 26)

the Council may, in its discretion, do any one or more of the following things-

- (i) order the name of the registered medical practitioner to be removed from the General Register; or (Amended 7 of 1996 s. 26)
- (ii) order the name of the registered medical practitioner to be removed from the General Register for such period as it may think fit; or (Amended 7 of 1996 s. 26)
- (iii) order the registered medical practitioner to be reprimanded; or
- (iiia) order that the name of the registered medical practitioner be removed from the Specialist Register; or (Added 7 of 1996 s. 26)
- (iiib) order that the name of the registered medical practitioner be removed from the Specialist Register for such period as it may think fit; or (Added 7 of 1996 s. 26)
- (iv) make any such order as aforesaid but suspend the application thereof, subject to such conditions as the Council may think fit, for a period, or periods in the aggregate, not exceeding 3 years; or (Replaced 12 of 1962 s. 3.)
- (iva) make any such order as aforesaid (except an order under paragraph (iv)) and further order that such order take effect upon its publication in the Gazette if the Council is satisfied that it is necessary to do so for the protection of the public or in the best interest of the registered medical practitioner; or (Added 7 of 1996 s. 26)
- (ivb) refer the case to the Health Committee; or (Added 7 of 1996 s. 26)
- (v) order that a warning letter be served on the registered medical practitioner; (Added 39 of 1974 s. 2)

and may, in any case, make such order as the Council thinks fit with regard to the payment of the costs of the Registrar, the Secretary, any complainant or any person presenting the case to the Council or of the registered medical practitioner, and any costs awarded may be recovered summarily as a civil debt in accordance with the provisions of section 67 of the Magistrates Ordinance (Cap 227). (Amended 30 of 1966 s. 4; 95 of 1970 s. 4; 7 of 1996 s. 26)

(2)

21B Meetings of Council for purpose of an inquiry

- (1) At any meeting of the Council held for the purpose of an inquiry under section 21, either-
 - (a) 5 members of the Council; or
 - (b) not less than 3 members of the Council and 2 assessors, on a rotational basis, from the panel appointed under subsection (2),

at least 1 of whom shall be a lay member of the Council or a lay assessor appointed under subsection 2(f) (as the case may be), but subject to the majority being registered medical practitioners, shall be a quorum.

(2) The Council shall appoint the following persons who are not members of the Council to form a panel of assessors for the purpose of conducting an inquiry under section 21-

- (a) 2 registered medical practitioners nominated by the Director;
- (b) 2 registered medical practitioners nominated by the Hospital Authority;
- (c) 2 registered medical practitioners nominated by the Academy of Medicine;

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- (d) 2 registered medical practitioners nominated by the University of Hong Kong;
 - (e) 2 registered medical practitioners nominated by The Chinese University of Hong Kong;
and
 - (f) 4 lay persons nominated by the Secretary for Health and Welfare.
- (3) An inquiry conducted by members of the Council and assessors forming a quorum under subsection (1)(b) is deemed to be an inquiry by the Council and is as valid and effectual as an inquiry conducted by members of the Council forming a quorum under subsection (1)(a).
- (4) An assessor shall hold office for a period of 1 year from the date of appointment and, at the expiry of his period of appointment or of any period for which he is reappointed, shall be eligible for reappointment for further periods of 1 year each.
- (5) Any assessor may at any time resign by giving notice in writing to the Chairman.
- (6) Section 3(6A) and (7) applies with respect to an assessor as it applies to a member of the Council.

(Added 7 of 1996 s. 27)

25 Orders of the Council

(1) A copy of any order made under section 21(1)(i), (ii), (iii), (iiia), (iiib), (iv) or (iva) or 21A(1) shall be served forthwith by the Registrar upon the registered medical practitioner concerned, either personally or by registered post addressed to his registered address. (Amended 39 of 1974 s. 3; 7 of 1996 s. 31)

(1A) Where the Council makes an order under section 21(1)(v), the Registrar shall forthwith serve the warning letter upon the registered medical practitioner concerned either personally or by registered post addressed to his registered address. (Added 39 of 1974 s. 3)

(2) Unless an order under section 21(1)(iva) is made at the same time as another order is made under section 21(1) or an order under section 21A(1)(d) is made at the same time as another order is made under section 21A(1), the Registrar shall not remove the name of the registered medical practitioner from the General Register or, as may be appropriate, the Specialist Register, before the expiry of 1 month after the date of service of the order of the Council on the person concerned and in the case of an appeal shall await the decision of the Court of Appeal. (Replaced 7 of 1996 s. 31. Amended 7 of 1996 s. 31)

(3) Any person whose name has been removed from the General Register ~~or Specialist Register, as may be appropriate~~, under the provisions of this Ordinance, or whose name had been, prior to the commencement of this Ordinance, removed under the provisions of the Medical Registration Ordinance 1935 (41 of 1935) from the register kept in accordance with the provisions of that Ordinance, may apply to the Council for the restoration of his name to the General Register ~~or Specialist Register, as may be appropriate~~ and the Council in its absolute discretion and after such inquiry and subject to the submission of evidence that he has not been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment and has not been guilty of misconduct in a professional respect while practising in Hong Kong or elsewhere and to such conditions, as it may consider desirable, may either allow or refuse the application, and if it allows the same, shall order the Registrar on payment by the applicant of the prescribed fee to restore the name of the applicant to the General Register ~~or Specialist Register, as may be appropriate~~, and thereupon the Registrar shall restore the name accordingly. (Replaced 32 of 1958 s. 2. Amended 63 of 1982 s. 11; 7 of 1996 s. 31)

(4) Any order made by the Council as aforesaid shall be signed by the Chairman.

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Midwives Registration Ordinance (Cap. 162)

14 Provisions relating to orders of Council

(1) The secretary shall cause a copy of any order made under section 10(1) or of any decision of the Council to refuse to enter the name of an applicant upon the register under section 8(3) to be served, as soon as may be after the making thereof, upon the person concerned, either personally or by registered post addressed to the person at the last address known to the secretary. (Amended 67 of 1985 s. 16)

(2) The secretary shall not remove the name of any midwife from the register before the expiration of 30 days after the service upon the midwife of the copy of the order referred to in subsection (1), or, in the case of an appeal against such order, until after the determination of the appeal.

(3) Any midwife whose name is removed from the register in accordance with the provisions of this Ordinance, or whose name prior to the commencement of this Ordinance was removed in accordance with the provisions of the repealed Midwives Ordinance, from the roll of certified midwives kept in accordance with that Ordinance, may apply to the Council for restoration of the midwife's name to the register, and the Council, in its discretion, and after such inquiry and subject to such conditions as it may consider expedient, may either allow or refuse the application, and, if it allows the application, shall direct the secretary, on payment of the prescribed fee payable by the applicant, to restore the name of the applicant to the register and ~~thereupon, on receipt of such payment,~~ the secretary shall restore the name accordingly.

(Amended 61 of 1997 ss. 14 & 27)

18 Prohibition of persons other than a registered medical practitioner or registered midwife attending women in childbirth

(1) A person who, not being a registered medical practitioner or a registered midwife, attends a woman in childbirth commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(2) Subsection (1) does not apply to-

- (a) a person who, while undergoing training with a view to becoming a registered medical practitioner-
 - (i) attends a woman in childbirth; and
 - (ii) is, during that attendance, under the direction and personal supervision of a registered medical practitioner or a registered midwife; or
- (b) a person who, while undergoing training with a view to becoming a registered midwife-
 - (i) attends a woman in childbirth as part of a course of ~~instruction~~ training in midwifery recognized by the Council; and
 - (ii) is, during that attendance, under the direction and personal supervision of a registered medical practitioner or a registered midwife; or
- (c) a person who attends a woman in childbirth in case of an emergency.

(Replaced 61 of 1997 s. 18)

22 Person not to practise as registered midwife without practising certificate

(1) A registered midwife shall not practise as such unless the midwife is the holder of a current practising certificate.

(2) A registered midwife may apply to the secretary for a practising certificate.

(3) An application under this section shall be accompanied by -

- (a) the prescribed fee the issue of a practising certificate;
- (b) a declaration signed by the applicant stating whether or not the applicant has been convicted of a criminal offence that is punishable with imprisonment, in Hong Kong or

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elsewhere and, if the applicant has been convicted of such an offence, giving details of the conviction.

(4) On receipt of an application that complies with this section, the secretary shall issue the applicant with a practising certificate.

(5) A practising certificate is subject to such conditions with respect to the practice of midwifery as the Council may impose and are specified in the certificate.

(6) If the secretary issues a practising certificate for a period that is to begin in the year in which the application for the certificate is made, the secretary shall issue a certificate for the period beginning with the date of its issue and ending the end of the third year beginning on 1 January of the year of issue.

(7) If the secretary issues a practising certificate for a period that is to begin in the year following the year in which the application for the certificate was made, the secretary shall issue a certificate for 3 years beginning on 1 January of the first year of the relevant period.

(8) A practising certificate ceases to have effect if the name of its holder is removed from the register.

(9) A person who is required under this section to be the holder of a practising certificate is taken to have obtained the certificate on making an application for such a certificate in accordance with this section and paying the prescribed fee.

(10) The secretary shall, upon application by the holder of a practising certificate which is then in force issued under subsection (4) and the payment of a prescribed fee payable by such person, issue to such person a certified copy of the original practising certificate.

PART VI

REGULATIONS, DIRECTIONS AND EXEMPTIONS

23 Regulations

(1) The Governor in Council may make regulations-

- (a) prescribing fees payable under this Ordinance; and
- (b) providing for the disposal of any fee paid or recovered under this Ordinance.

(1A) Regulations made under subsection (1)(a) may prescribe different fees to be payable by different categories of midwives.

(2) The Secretary for Health and Welfare may make regulations-

- (a) prescribing the functions of the legal adviser to the Council; and
- (b) prescribing the functions to be performed by the secretary.

(3) Subject to the approval of the Secretary for Health and Welfare, the Council may make regulations-

- (a) prescribing the nature of the particulars to be entered in the register and the manner in which the register is to be kept;
- (b) prescribing the procedure to be followed at meetings of the Council;
- (c) providing for the manner in which applications for registration and ~~re-registration~~ restoration are to be made;
- (d) providing for examinations and courses of training in midwifery;
- (e) providing for the receipt of complaints or information regarding a registered midwife or an applicant for registration;
- (f) providing for the establishment of a committee to be known as the Preliminary Investigation Committee to make preliminary investigations into those complaints or that information and to determine whether or not an inquiry should be held under section 10;
- (g) prescribing the procedure to be followed in relation to-
 - (i) the submission of any such complaints and information to the Committee;
 - (ii) the preliminary investigation by the Committee of those complaints or that information;
 - (iii) the formulation of charges arising out of those complaints or that information;

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- (iv) the reference to the Council of cases arising out of those complaints or that information; and
- (v) inquiries held by the Council under section 10;
- (h) if a person is a member of the Preliminary Investigation Committee and also a member of the Council, prohibiting the person from attending such an inquiry if the person also took part in an investigation which gave rise to the inquiry;
- (i) providing for matters relating to the conduct and the practice in midwifery; and
- (j) generally providing for the provisions of this Ordinance to be carried into effect.

(4) Regulations made under subsection (3) may require documents submitted under those regulations to be in a form specified by, and to be verified by statutory declaration or by a declaration as is acceptable to, the Council.

(Replaced 61 of 1997 s. 24)

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Nurses Registration Ordinance (Cap.164)

PART II

THE NURSING COUNCIL*

(Amended 82 of 1997 s. 3)

3 Establishment and composition of the Council

(1) For the purposes of this Ordinance, there shall be established a Council to be known as the Nursing Council of Hong Kong*.

(2)

3A Questioning of election by election petition

(1) The result of an election of members to the Council under section 3(2)(ca) may only be questioned by an election petition.

(2) Matters relating to election petitions shall be provided for by regulations.

4 Meetings of the Council

(1) The Council shall meet at such times and in such places-

(a) as the chairman may from time to time direct; or

(b) as may be requested in writing addressed to the chairman by not less than 57 members.

(2) At any meeting of the Council 57 members shall be a quorum.

(3) The validity of any proceedings of the Council shall not be affected by any vacancy among the members thereof or by any defect in the appointment of any member thereto.

(4) All questions for determination at any meeting of the Council shall be decided by a majority vote of the members present at such meeting and voting thereon:

Provided that nothing in this subsection shall be construed to prevent any question for determination by the Council being so determined by a majority opinion of the members upon circulation to them of papers relating thereto.

(5) The chairman at any meeting of the Council shall have an original vote and also, if upon any question the votes are equally divided, a casting vote except in the case of an inquiry held under section 17 in which case he shall have only an original vote.

(6) The Council may make standing orders for regulating procedure at, or in connection with, its meetings.

(Amended 82 of 1997 s. 21)

10A Person not to practise as registered nurse without practising certificate

(1) A person to whom this section applies shall not practise as a registered nurse in Hong Kong unless he is the holder of a practising certificate which is then in force issued under this section.

(2) Subject to the payment of the prescribed fee for the issue of a practising certificate under this section, the secretary, on application made to him for that purpose by a person to whom

* Amendment to the Chinese version only.

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this section applies, shall issue to the person a certificate to the effect that the person is, subject to any conditions and restrictions specified in the certificate, entitled to practise as a registered nurse in Hong Kong.

(2A) The secretary shall, upon application by the holder of a practising certificate which is then in force issued under subsection (2) and the payment of a prescribed fee payable by such person, issue to such person a certified copy of the original practising certificate.

(3) Where the secretary issues a practising certificate in respect of a period which is to commence in the year in which the application for the certificate is made, he shall issue a certificate that, subject to subsection (5), is in force from the date of its issue until the end of the third year commencing on 1 January of the year of issue.

(4) Where the secretary issues a practising certificate in respect of a period that is to commence in the year following the year in which the application for the certificate is made, he shall issue a certificate that, subject to subsection (5), is in force for a period of 3 years commencing on 1 January of the first year of the relevant period.

(5) If at any time during the currency of a practising certificate issued under this section, the name of the holder of the certificate is removed from the register, the certificate shall thereupon be deemed to be cancelled.

(6) Any person who is required under this section to be the holder of a practising certificate issued under this section shall be deemed to have obtained the certificate when he has duly applied to the secretary and paid the prescribed fee for the issue of the practising certificate.

(7) This section applies to-

- (a) a person registered under section 9; and
- (b) a person deemed to be a registered nurse by virtue of section 26(b).

16A Person not to practise as enrolled nurse without practising certificate

(1) A person to whom this section applies shall not practise as an enrolled nurse in Hong Kong unless he is the holder of a practising certificate which is then in force issued under this section.

(2) Subject to the payment of the prescribed fee for the issue of a practising certificate under this section, the secretary, on application made to him for that purpose by a person to whom this section applies, shall issue to the person a certificate to the effect that the person is, subject to any conditions and restrictions specified in the certificate, entitled to practise as an enrolled nurse in Hong Kong.

(2A) The secretary shall, upon application by the holder of a practising certificate which is then in force issued under subsection (2) and the payment of a prescribed fee payable by such person, issue to such person a certified copy of the original practising certificate.

(3) Where the secretary issues a practising certificate in respect of a period which is to commence in the year in which the application for the certificate is made, he shall issue a certificate that, subject to subsection (5), is in force from the date of its issue until the end of the third year commencing on 1 January of the year of issue.

(4) Where the secretary issues a practising certificate in respect of a period that is to commence in the year following the year in which the application for the certificate is made, he shall issue a certificate that, subject to subsection (5), is in force for a period of 3 years commencing on 1 January of the first year of the relevant period.

(5) If at any time during the currency of a practising certificate issued under this section, the name of the holder of the certificate is removed from the roll, the certificate shall thereupon be deemed to be cancelled.

(6) Any person who is required under this section to be the holder of a practising certificate issued under this section shall be deemed to have obtained the certificate when he has duly applied to the secretary and paid the prescribed fee for the issue of the practising certificate.

(7) This section applies to-

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- (a) a person enrolled under section 15; and
- (b) a person deemed to be an enrolled nurse by virtue of section 26(b).

27 Regulations

- (1) ~~The Governor in Council may by regulation provide for— (Amended 82 of 1997 s. 20)~~
 - ~~(a) (c) — (Repealed 82 of 1997 s. 20)~~
 - ~~(d) the fees to be paid in connection with examinations, registration, enrolment, re-registration, re-enrolment, certificates of registration or enrolment and practising certificates, and certified copies thereof; (Amended 34 of 1995 s. 30; 82 of 1997 s. 20)~~
 - ~~(e) (i) — (Repealed 82 of 1997 s. 20)~~
 - ~~(ia) the fees to be paid in respect of the furnishing, to any party to an inquiry held by the Council under section 17, of a copy of any record of any proceedings of the inquiry; (Added 19 of 1992 s. 2. Amended 82 of 1997 s. 20)~~
 - ~~(j) (k) (Repealed 82 of 1997 s. 20)~~
- (1) (a) The Chief Executive in Council may make regulations prescribing the fees payable under this Ordinance.
 - (b) Regulations made under paragraph (a) may prescribe different fees to be payable by different categories of nurses.
- (2) The Secretary for Health and Welfare may by regulation provide for-
 - (a) the duties of the legal adviser;
 - (b) additional duties to be performed by the secretary. (Added 82 of 1997 s. 20)
- (3) Subject to the approval of the Secretary for Health and Welfare, the Council may by regulation provide for-
 - (a) the nature of the particulars to be entered in the register and on the roll and the manner in which they are to be kept;
 - (b) the procedure to be followed at meetings of the Council;
 - (c) the manner in which applications for registration, enrolment, ~~re-registration and re-enrolment~~ and restoration shall be made;
 - (d) examinations and courses of training in nursing;
 - (e) the receipt of complaints or information regarding any matter that may be inquired into by the Council under section 17 and the establishment of a committee to be known as the Preliminary Investigation Committee to make such preliminary investigation as it considers appropriate regarding such complaint or information and to determine whether or not there shall be an inquiry under section 17;
 - (f) the prohibition of a member of the Preliminary Investigation Committee who is also a member of the Council from attending any meeting of the Council, while it is inquiring under section 17 into a complaint or information, in the preliminary investigation of which he took part;
 - (g) the procedure to be followed in relation to-
 - (i) the submission of complaints and information to the Preliminary Investigation Committee;
 - (ii) the preliminary investigation of any complaint or information by the Preliminary Investigation Committee;
 - (iii) the formulation of charges arising out of complaints and information;
 - (iv) the reference to the Council by the Preliminary Investigation Committee of cases arising out of complaints and information;
 - (v) the procedure as regards inquiries held by the Council under section 17;
 - (h) matters relating to the conduct of nursing practice;
 - (i) the term of office of and manner of electing members to the Council under section 3(2)(ca) and any other related matters; and, including but not limited to—
 - (i) the qualifications of candidates, electors and subscribers for a nomination paper;
 - (ii) the particulars of any system of voting and counting; and

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- (iii) the determination of election results;
- (ia) the procedure and matters in relation to an election petition under section 3A, including but not limited to -
 - (i) the person who may present a petition;
 - (ii) the person who may be the respondent to a petition;
 - (iii) the grounds for questioning the result of an election by a petition;
 - (iv) the person who may regulate the procedure of a petition;
 - (v) the person who may hear and determine a petition; and
 - (vi) the power to validate acts done pending the determination of the result of the petition; and
- (j) generally giving effect to the provisions of this Ordinance. (Added 82 of 1997 s. 20)

(4) For the purposes of subsection (3), regulations made under that subsection may require that documents submitted for the purpose of those regulations be in such a form as is specified by, and be verified by statutory declaration or such declaration as is acceptable to, the Council. (Added 82 of 1997 s. 20)

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Radiation Ordinance (Cap. 303)

3 Constitution of Radiation Board

- (1) There is hereby established for the purposes of this Ordinance a Board to be known as the Radiation Board.
- (2) The Board shall consist of-
- (a) the following ex officio members, namely-
 - (i) the Director of Health; (Amended 76 of 1989)
 - (ii) the Commissioner for Labour, or a person nominated by him as his representative; (Replaced 55 of 1970 s. 3)
 - (iii) the Director-General of Trade, or a person nominated by him as his representative; and (Replaced 55 of 1970 s. 3. Amended L.N. 206 of 1977; L.N. 294 of 1982; L.N. 292 of 1989)
 - (b) such persons not exceeding 10 in number as the Governor may appoint.
- (3) Members of the Board appointed under subsection (2)(b) shall hold office for 3 years and may be re-appointed or removed by the Governor at his pleasure, or may resign by giving a notice in writing to the Chairman of the Board. In the event of any vacancy occurring from any cause such vacancy shall be filled by appointment by the Governor and a member so appointed shall hold office for so long as the member in whose place he has been appointed would have held office.
- (4) The Director of Health shall be ex officio Chairman of the Board. In the absence of the Chairman from any meeting of the Board, the members of the Board present shall appoint one of their number to be Chairman. (Amended L.N. 76 of 1989)
- (5) The Board shall meet at such places and times as the Chairman of the Board may appoint, and at any meeting 5 members shall form a quorum.
- (6) Every question before arising at a meeting of the Board shall be determined by a majority of the votes of the members present at the meeting of the Board.
- (7) The Chairman of the Board shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.
- (8) Except as expressly provided in this Ordinance, the Board may regulate its procedure and may make standing orders for that purpose. (Amended 46 of 1990 s. 3)
- (9) A secretary to the Board shall be appointed by the Governor.
- (10) (a) The Board may transact any of its business by circulation of papers to all members without a meeting.
- (b) Subject to paragraphs (c) and (d), a written resolution that is approved in writing by members of a number not less than that required to constitute a majority of the Board, shall be as valid and effectual as if it had been passed at a meeting of the Board by the votes of the members so approving the resolution.
- (c) Any member may, within a period that shall be specified in any paper being circulated, by notice in writing, request the Chairman of the Board to refer any particular item of the business in the paper to the next meeting of the Board.
- (d) Where a notice under paragraph (c) has been given to the Chairman of the Board, any resolution that has been approved in writing under paragraph (b) by the members in relation to the item of business specified in the notice shall be void.

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Supplementary Medical Professions Ordinance (Cap. 359)

PART II

ESTABLISHMENT AND POWERS OF COUNCIL AND BOARDS

3 Establishment and composition of Council

(1) There shall be a Council called the Supplementary Medical Professions Council and subject to subsection (6), consisting of the following members-

- (a) a Chairman to be appointed by the Governor;
- (b) a Deputy Chairman to be appointed by the Governor;
- (c) not more than 4 public officers appointed by the Governor;
- (d) the following persons, ~~whose terms of office shall run for 3 consecutive years, from the respective dates of their appointment-~~
 - (i) 1 person appointed by the Governor on the nomination of the University of Hong Kong;
 - (ii) 1 person appointed by the Governor on the nomination of The Chinese University of Hong Kong;
 - (iii) 1 person appointed by the Governor on the nomination of The Hong Kong Polytechnic University; (Amended 100 of 1994 s. 9)
 - (iv) 1 person appointed by the Governor from each profession; and
 - (v) 4 other persons, not being public officers, appointed by the Governor.

~~(2) Any member appointed under subsection (1)(d) may, upon the expiry of his term of office, be reappointed.~~

~~(3) Any member appointed under subsection (1)(d) or reappointed under subsection (2) may before the expiry of his term of office-~~

- ~~(a) resign his office by notice to the Governor; or~~
- ~~(b) be removed from office by the Governor for permanent incapacity or other sufficient cause (as to the existence of which the decision of the Governor shall be final);~~

~~and upon such resignation or removal the term for which he was appointed or reappointed shall be deemed to have expired.~~

~~(4) There shall be-~~

- ~~(a) a secretary; and~~
- ~~(b) a legal adviser;~~

~~to the Council who shall be appointed by the Governor.~~

~~(2) Subject to subsections (3) and (4), the term of office of any member of the Council appointed under this section shall run for 3 consecutive years, from the date of his appointment, or such lesser period as the Chief Executive may appoint, and that member may, upon the expiry of his term of office, be reappointed.~~

~~(3) Any member of the Council appointed under this section or reappointed under subsection (2) may, before the expiry of his term of office, be removed from office by the Chief Executive for permanent incapacity or other sufficient cause (as to the existence of which the decision of the Chief Executive shall be final), and upon such removal, the term for which he was appointed or reappointed shall be deemed to have expired.~~

~~(4) Subject to subsection (5), any member of the Council may resign by giving a notice in writing to the Chairman of the Council.~~

~~(5) The Chairman of the Council may resign by giving a notice in writing to the secretary of the Council.~~

~~(6) If the office of Chairman of the Council becomes vacant due to effluxion of time or as a result of resignation or otherwise, the Deputy Chairman of the Council shall act in his place pending the appointment of a new Chairman under subsection (1)(a); if the office of Deputy Chairman of the Council is also vacant, the secretary of the Council shall convene a meeting within 3 months of the occurrence of such vacancy for the purpose of electing a member of the Council to act in the place of the Chairman of the Council pending the appointment of a new Chairman under subsection (1)(a).~~

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(7) ~~The secretary of the Council shall preside at a meeting held under subsection (6) until the Chairman of the Council is elected under that subsection and assumes office, but the secretary of the Council shall not have an original or a casting vote.~~

(8) ~~There shall be-~~

~~(a) a secretary; and~~

~~(b) a legal adviser,~~

~~to the Council who shall be appointed by the Chief Executive.~~

5 Establishment and composition of boards

(1) ~~For Subject to subsection (6), for each profession there shall be a board consisting of not less than 9 and not more than 12 members comprising the following-~~

~~(a) a Chairman appointed by the Governor from among the members of the Council, other than a member appointed under section 3(1)(d)(iv);~~

~~(b) 1 person, being a registered medical practitioner, appointed by the Governor, on the nomination of the Hong Kong Medical Association;~~

~~(c) 1 person, being a registered medical practitioner, appointed by the Governor on the nomination of the Hong Kong Branch of the British Medical Association;~~

~~(d) 1 person specially qualified to advise the board on professional education appointed by the Governor; and~~

~~(e) not less than 5 and not more than 8 persons, being members of the relevant profession, appointed by the Governor.~~

~~(2) Any member of a board may, upon the expiry of his term of office, be reappointed.~~

~~(3) Any member of a board appointed under subsection (1) or reappointed under subsection (2) may before the expiry of his term of office-~~

~~(a) resign his office by notice to the Governor; or~~

~~(b) be removed from office by the Governor for permanent incapacity or other sufficient cause (as to the existence of which the decision of the Governor shall be final);~~

~~and upon such resignation or removal the term for which he was appointed or reappointed shall be deemed to have expired.~~

~~(4) There shall be-~~

~~(a) a secretary; and~~

~~(b) a legal adviser,~~

~~to each board who shall be appointed by the Governor.~~

~~(2) Subject to subsections (3) and (4), the term of office of any member of a board appointed under this section shall run for 3 consecutive years, from the date of his appointment, or such lesser period as the Chief Executive may appoint, and that member may, upon the expiry of his term of office, be reappointed.~~

~~(3) Any member of a board appointed under this section or reappointed under subsection (2) may, before the expiry of his term of office, be removed from office by the Chief Executive for permanent incapacity or other sufficient cause (as to the existence of which the decision of the Chief Executive shall be final), and upon such removal, the term for which he was appointed or reappointed shall be deemed to have expired.~~

~~(4) Subject to subsection (5), any member of a board may resign by giving a notice in writing to the Chairman of the board.~~

~~(5) The Chairman of a board may resign by giving a notice in writing to the secretary of the board.~~

~~(6) If the office of Chairman of a board becomes vacant due to effluxion of time or as a result of resignation or otherwise, the secretary of the board shall convene a meeting within 3 months of the occurrence of such vacancy for the purpose of electing a member of the board to act in the place of the Chairman of the board pending the appointment of a new Chairman under subsection (1)(a).~~

~~(7) The secretary of a board shall preside at a meeting held under subsection (6) until the Chairman of the board is elected under that subsection and assumes office, but the secretary of the board shall not have an original or a casting vote.~~

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- (8) ~~There shall be-~~
~~(a) a secretary; and~~
~~(b) a legal adviser,~~
to each board who shall be appointed by the Chief Executive.

30 Disapplication of certain provisions to certain classes of person

- (1) Any person who-
- (a) holds a teaching appointment at a university, polytechnic, school or institution approved for the purposes of this section by the Governor by notice in the Gazette;
 - (b) holds an appointment as a public officer;
 - (c) holds an appointment in ~~a subvented voluntary organization approved for the purposes of this section by the Council by notice in the Gazette; or an institution in respect of which a grant is made directly or indirectly out of the general revenue; or~~
 - (d) holds an appointment at the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap 113), (Added 89 of 1991 s. 2)
- and is practising a profession directly connected with and necessary for the discharge or performance of his duties while serving in such appointment, shall be exempt from sections 18 and 19. (Replaced 70 of 1989 s. 10. Amended 89 of 1991 s. 2; 34 of 1995 s. 39)
- (2) The following persons practising a profession directly connected with and necessary for the discharge or performance of their duties shall while serving in the appointments specified be deemed to be registered but sections 13, 14, 15, 16, 18 and 19 shall not apply to or in relation to them-
- (a) a person holding an appointment in Her Majesty's Forces; and
 - (b) a person holding an appointment in a ship.
- (3) Subsections (1) and (2) shall not extend to any person specified therein who is practising a profession privately in Hong Kong.

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Chiropractors Registration Ordinance (Cap. 428)

5 Functions of the Council

The Council shall-

- (a) establish and maintain a register of registered chiropractors;
- (b) set and review the qualification standards for registration as a registered chiropractor and related registration matters;
- (c) advise the Government on registration matters;
- (d) examine and verify the qualifications of persons who apply for registration as registered chiropractors;
- (e) receive, examine, accept or reject applications for registration and renewal of registration as a registered chiropractor;
- (f) deal with disciplinary offences;
- (g) keep proper records of its proceedings; and
- (h) carry out such other functions as this Ordinance may prescribe.

(Enacted 1993)

6 Powers of the Council

The Council may-

- (a) create and appoint members of committees to advise the Council on the carrying out of the powers and functions of the Council;
- (b) issue a Code of Practice and make rules for the professional conduct and discipline of registered chiropractors;
- (c) subject to the approval of the Secretary for Health and Welfare, make such further rules as may be required by, or by virtue of, this Ordinance.

(Enacted 1993)

11 Acceptance or refusal of registration

(1) The Council may accept or reject an application for registration ~~or renewal of registration~~ under this Ordinance.

(2) Where the Council accepts or rejects an application for registration ~~or renewal of registration~~, the Secretary shall act in accordance with rules made by the Council.

(3) Where the Council rejects an application for registration ~~or renewal of registration~~, it shall give to the applicant an adequate statement of the reasons for the rejection.

(Enacted 1993)

12 Practising certificates

(1) A registered chiropractor shall not practise chiropractic in Hong Kong unless he is the holder of a practising certificate which is then in force.

~~(2) Subject to the payment of the prescribed fee the Secretary shall, on application made to him in that behalf issue to the registered chiropractor a certificate, in a form determined by the Council, to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practise chiropractic in Hong Kong.~~

(2) A registered chiropractor may apply to the Secretary for the issue or renewal of a practising certificate.

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~~(2A) An application under this section shall be accompanied by –~~

~~(a) the prescribed fee; and~~

~~(b) a declaration signed by the applicant stating whether, since the date of the last declaration to the like effect made by the applicant for the purposes of this subsection or that applicant's application for registration, the applicant has in Hong Kong or elsewhere –~~

~~(i) been convicted of a criminal offence that is punishable with imprisonment; and~~

~~(ii) been found guilty of misconduct or neglect in a professional respect,~~

~~and, if the applicant has been so convicted or found guilty, the date, place and nature of each offence or incident of misconduct or neglect, as the case may be.~~

~~(2B) On receipt of an application that complies with this section, the Secretary shall issue or renew the practising certificate.~~

~~(2C) A practising certificate shall be in a form determined by the Council, and is subject to such conditions with respect to the practice of chiropractic as the Council may impose and are specified in the certificate.~~

~~(3) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of that year, the certificate shall, subject to section 15(5), be in force from the time of its issue until the end of that year.~~

~~(4) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of the following year, the certificate shall, subject to section 15(5), be in force for a period of 12 months commencing on 1 January in that following year.~~

~~(5) A registered chiropractor shall, not earlier than 3 months prior to the expiry of the current practising certificate, apply to the Secretary for renewal of his practising certificate in a form determined by the Council.~~

~~(6) A registered chiropractor shall pay the prescribed fee for an application for renewal of his practising certificate at the time of applying for such renewal.~~

~~(7) If a registered chiropractor does not apply for renewal of his practising certificate before the expiry of his current practising certificate the Secretary shall, on the expiry of the current practising certificate, note in the register that the certificate has not been renewed.~~

~~(8) Where a registered chiropractor fails to renew his practising certificate within time, the Council may extend the time for renewal if the registered chiropractor pays to the Council the prescribed fee for the extension of time.~~

~~(9) Any grant of extension of time by the Council under subsection (8) shall not affect any offence under any other Ordinance that the person who has failed to renew on time may commit as a result of the failure.~~

(Enacted 1993)

13 Registration committee

(1) The Council may appoint a registration committee of not less than 3 persons to consider the qualifications of applicants.

(2) The Secretary may nominate a person to be a member of the registration committee, and, if a person is so nominated, the Council shall appoint him to the committee.

(3) The registration committee shall make recommendations to the Council on the acceptability of the qualifications which require the Council's acceptance under section 9(1)(a).

(4) The Council shall not be bound by a recommendation of the registration committee under subsection (3).

(5) The Council may delegate any of its functions relating to registration ~~and the renewal of registration~~ to the registration committee.

(Enacted 1993)

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16 Disciplinary offences

- (1) A registered chiropractor commits a disciplinary offence if he-
- (a) commits misconduct or neglect in any professional respect;
 - (b) has been convicted of an offence under this Ordinance;
 - (c) has obtained registration under this Ordinance by fraud or misrepresentation;
 - (d) was not at the time of his registration under this Ordinance entitled to be registered;
 - (e) without reasonable excuse, fails to attend before an inquiry committee when summoned either as a witness or as a person in respect of whom the inquiry committee is meeting; or
 - (f) has been convicted in Hong Kong or elsewhere of an offence which may bring the profession of chiropractic into disrepute.

(2) If a person who has been guilty of misconduct or neglect in a professional respect or has been convicted of an offence under this Ordinance or has been convicted in Hong Kong or elsewhere of an offence which may bring the profession of chiropractic into disrepute, informs the Council of such misconduct, neglect or conviction when he applies for registration ~~or renewal of registration~~ and the Council subsequently accepts the person for registration ~~or renewal of registration~~, that person shall not, for the purposes of registration ~~or renewal of registration~~, be considered as having committed a disciplinary offence in respect of the disclosed misconduct, neglect or conviction.

(3) Where the Secretary receives a complaint alleging a disciplinary offence, the Secretary shall submit the complaint to 2 members of the Council appointed for the purpose, one of whom shall be a person appointed under section 3(2)(b), and the members shall determine whether the complaint should be referred to the Council.

17 Inquiry committee and rules of conduct

(1) The Council may refer any complaint alleging a disciplinary offence to an inquiry committee for decision, and for that purpose the Council may establish an inquiry committee of not less than 3 of its members, one of whom shall be a person appointed under section 3(2)(b), to determine whether or not the registered chiropractor against whom the complaint is made has committed a disciplinary offence.

(2) The Secretary shall send notice of a referral under subsection (1) and an adequate statement of the substance of the complaint by prepaid registered post to the registered address of the registered chiropractor.

(3) ~~The Subject to the approval of the Secretary for Health and Welfare, the Council may make~~ rules providing for the conduct of its inquiries by an inquiry committee and for other matters relating to the investigation of an alleged disciplinary offence.

(4) The Legal Adviser shall be present at every inquiry conducted by an inquiry committee.

(5) The inquiry committee shall not proceed to hear evidence of a complaint concerning a disciplinary offence unless it is satisfied that the requirements of subsection (2) have been complied with and that the registered chiropractor in respect of whom the complaint is made has been given 28 days' notice of the complaint and the date, time and place of the hearing.

(6) The registered chiropractor referred to in subsection (5) shall be entitled to attend and hear all evidence produced at the hearing and informed of any advice tendered by the Legal Adviser to the inquiry committee under section 7(3) and shall be provided with a copy of this Ordinance and any rules made under this section.

(7) The Council may make rules for the rehearing of an inquiry by an inquiry committee.

(8) Where a registered chiropractor is alleged to have committed a disciplinary offence under section 16(1)(b) or (f), the inquiry committee-

- (a) shall not be required to inquire whether the registered chiropractor was properly convicted of the alleged offence; and
- (b) may consider any record of the case in which a conviction was recorded and any other evidence which the inquiry committee may think is relevant as showing the nature and gravity of the offence.

(9) The inquiry committee may, in deciding whether a person has committed a disciplinary offence,

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have regard to any rules of professional conduct or Code of Practice made or issued by the Council.

Schedule Provisions as Respects the Council and its Members

[sections 2 & 4]

1. (1) A member of the Council shall hold his office in accordance with the terms of his appointment.
(2) A member of the Council appointed under section 3(2)(b) or (c) of this Ordinance may at any time by notice in writing to the ~~Governor~~ Chairman resign his office.
2. If the Governor is satisfied that a member of the Council appointed under section 3(2)(b) or (c) of this Ordinance-
 - (a) has become bankrupt or made an arrangement with his creditors; or
 - (b) is incapacitated by physical or mental illness; or
 - (c) is otherwise unable or unfit to discharge the functions of a member,the Governor may declare his office as a member of the Council to be vacant, and shall notify the fact in such manner as the Governor thinks fit; and upon such declaration the office shall become vacant.
3. (1) The Council shall elect a Chairman each year from amongst the members appointed under section 3(2) of this Ordinance and not more than 15 months shall elapse between the date of one election and the next.
~~Provided that on the commencement of sections 2 to 4 of this Ordinance for the purpose of any meeting of the Council, prior to the election of a Chairman, the Director of Health shall exercise the functions of a Chairman until a Chairman is so elected.~~
(2) A member elected as Chairman under subsection (1) may at any time, by notice in writing to the Council, resign from the office of Chairman.
3A. If the office of Chairman becomes vacant as a result of resignation or otherwise, the Council shall elect a Chairman from among the members appointed under section 3(2) of this Ordinance.
4. (1) The Chairman may appoint the time and place for the Council to meet.
(2) The Secretary shall, or a member of the Council may, on the written requisition of not less than 3 members, give notice of a meeting of the Council to be held not sooner than 7 days but within 28 days from receipt of the requisition and appoint the time and place for that purpose.
(3) The Council shall meet at least once every 12 months and as often as may be necessary to transact the business of the Council.
(4) The Council shall not transact business at a meeting other than to adjourn unless there is a quorum of 1/3 of the members of the Council present.
(5) The Council may make rules, not inconsistent with this section, setting out the procedures to be followed at meetings.
(6) The Council shall lodge a copy of any rules made under subsection (5) with the Secretary for Health and Welfare.
5. The Council may transact any of its business by circulation of papers amongst members whether any such member is in or outside Hong Kong, and a resolution in writing which is approved in writing by a majority of the members shall be as valid and effectual as if it had been passed at a meeting of the Council.
6. A certificate signed by the Secretary that an instrument of the Council purporting to be made or issued by or on behalf of the Council was so made or issued shall be conclusive evidence of that fact.
7. Every document purporting to be an instrument made or issued by or on behalf of the Council and to be signed or executed by the Secretary or a person authorized by the Council to act in that behalf, shall be received in evidence and deemed, without further proof, to be so made or issued.

(Enacted 1993)