

C004-e

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 (a) In subsection (2)---

(i) in paragraph (g), add "and" at the end;

(ii) in paragraph (h), repeal "; and" and substitute a full stop;

(iii) repeal paragraph (i).

(b) In subsection (3), repeal "The" and substitute "Subject to subsection (3A), the".

(c) Add---

"(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."

2. Section 8(1) (a) Repeal paragraphs (b) and (c).

(b) Repeal paragraph (e) and substitute---

"(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 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)".

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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 21(1) Add ", do any one or more of the following 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
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1.	Section 14(3)	(a) Add ", on payment of the prescribed fee payable by the applicant," before "to restore".
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	(b)	Repeal "thereupon" and substitute ", on receipt of such payment,".
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2.	Section 18(2)(b)(i)	Repeal "instruction" and substitute "training".
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3.	Section 22	Add---
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	"(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."
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4.	Section 23	(a) Add---
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	"(1A)	Regulations made under subsection (1)(a) may prescribe different fees to be payable by different categories of midwives."
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(b)	In subsection (3)(c),	repeal "re-registration" and substitute "restoration".
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#### SCHEDULE 4 [s. 5]

##### Amendment of Nurses Registration Ordinance

Item	Provision affected	Amendment
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1.	Part II	In the heading, repeal "理管".
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2.	Section 3	In subsection (1), repeal "理管".
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3.	New	Add---
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	"3A.	Questioning of election by election petition
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(1)	The result of an election of members to the Council under section 3(2)(ca)	may only be questioned by an election petition.
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(2) Matters relating to election petitions shall be provided for by regulations."

4. Section 4(1)(b) Repeal "5" and substitute "7".  
and (2)

5. Section 10A 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."

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"

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SCHEDULE 5 [s. 6]

Amendment of Radiation Ordinance

Item Provision affected Amendment

1. Section 3 (a) In subsection (3), add after "pleasure"---  
", or may resign by giving a notice in writing to the Chairman of the Board".
- (b) In subsection (6), repeal "before" and substitute "arising at a meeting of".
- (c) Add---  
"(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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SCHEDULE 6 [s. 7]

Amendment of Supplementary Medical Professions Ordinance

Item Provision affected Amendment

1. Section 3 (a) In subsection (1), add "subject to subsection (6)," before "consisting".
- (b) In subsection (1)(d), repeal ", whose terms of office shall run for 3 consecutive years, from the respective dates of their appointment".
- (c) Repeal subsections (2) to (4) and substitute---  
"(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).

(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".

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#### SCHEDULE 7 [s. 8]

#### Amendment of Chiropractors Registration Ordinance

Item	Provision affected	Amendment
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1.	Section 5(e)	Repeal "and renewal of registration".
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2.	Section 6(c)	Add "subject to the approval of the Secretary for Health and Welfare," before "make".
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3.	Section 11	Repeal "or renewal of registration" wherever it appears.
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4.	Section 12	(a) Repeal subsection (2) and substitute---
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"(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 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)).