

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1310/99-00  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/HS

**LegCo Panel on Health Services**

**Minutes of meeting**  
**held on Monday, 14 February 2000 at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

**Members Present** : Hon Michael HO Mun-ka (Chairman)  
Dr Hon LEONG Che-hung, JP (Deputy Chairman)  
Hon HO Sai-chu, JP  
Hon LEE Wing-tat  
Hon Fred LI Wah-ming, JP  
Hon CHAN Yuen-han  
Hon Bernard CHAN  
Dr Hon YEUNG Sum  
Hon YEUNG Yiu-chung  
Hon LAW Chi-kwong, JP  
Dr Hon TANG Siu-tong, JP

**Members Absent** : Hon Cyd HO Sau-lan  
Hon LEE Kai-ming, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, JP  
Hon WONG Yung-kan

**Member Attending** : Hon Mrs Selina CHOW LIANG Shuk-ye, JP

**Public Officers Attending** : All items  
Miss Angela LUK  
Principal Assistant Secretary for Health and Welfare (Medical)1

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Mr Fletch CHAN  
Assistant Secretary for Health and Welfare

Dr S P MAK  
Acting Deputy Director of Health

Item IV

Mr Eddie POON  
Principal Assistant Secretary for Health and Welfare (Medical)3

Mr Jeffrey CHAN  
Assistant Secretary for Health and Welfare

**Deputation  
by invitation** : Item V

The Hong Kong Association of the Pharmaceutical Industry

Mr Robert SIU

Ms Annette CHIU

Mr Jack WONG

Ms Alice CHIN

**Clerk in  
Attendance** : Ms Doris CHAN  
Chief Assistant Secretary (2) 4

**Staff in  
Attendance** : Mr LEE Yu-sung  
Senior Assistant Legal Adviser

Ms Joanne MAK  
Senior Assistant Secretary (2) 4

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## **Opening remarks by the Chairman**

The Chairman welcomed the four new members, Mr LEE Wing-tat, Mr LEE Kai-ming, Mr Fred LI Wah-ming and Mr WONG Yung-kan, to the Panel and pointed out with these additional members, a quorum of five members was now required for the meetings of the Panel.

### **I. Confirmation of minutes of meeting held on 14 October 1999** (LC Paper No. CB(2)1037/99-00)

2. The minutes of the meeting on 14 October 1999 were confirmed.

### **II. Date of next meeting and items for discussion** (LC Papers Nos. CB(2)1038/99-00(01) - (02) and CB(2)1062/99-00(01) - (02))

3. Members agreed to discuss the following items at the next regular meeting to be held on 13 March 2000 at 8:30 am -

- (a) Use of acupuncture and Chinese medicines by other health care professionals;
- (b) Opening hours of Department of Health (DH) out-patient clinics; and
- (c) Long working hours of Medical Officers in public hospitals.

4. In addition, Mr Fred LI Wah-ming proposed to discuss the following items -

- (a) Monitoring of health food; and
- (b) Review of the licensing system for restaurants.

5. On item (a), the Chairman advised that there would be an oral question on the subject at the Council meeting on 16 February 2000, and suggested deferring discussion of the subject to a later date. As regards item (b), the Chairman informed the meeting that as the Environmental and Food Bureau considered it to be an environmental hygiene matter, the subject should be discussed by the Environmental Affairs (EA) Panel. The Clerk advised that the item had been included in the list of issues to be considered by the EA Panel.

6. In response to the Chairman's question, Acting Deputy Director of Health (Atg DD(H)) said that DH was authorized under the Quarantine and Prevention of Disease Ordinance (Cap. 141) to order a food business to suspend operation on the grounds of preventing the spread of an infectious disease. When a food business was ordered to

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suspend operation due to the above reason, it could not resume operation unless its hygienic conditions reached a level acceptable to DH.

7. Dr LEONG Che-hung referred to his letter dated 24 January 2000 to the Secretary for Health and Welfare (SHW) on the Ancillary Dental Workers (Dental Hygienists) (Amendment) Regulation (LC Paper No. CB(2)987/99-00) and pointed out that the Administration had misinformed LegCo Members in the relevant LegCo Brief that the concerned professional organizations had been consulted and agreed with the proposed amendment to the Regulation. As the Hong Kong Dental Association (HKDA) had expressed objection to the Amendment Regulation, Dr LEONG asked what remedial action the Administration would take to address the problem. In response, Principal Assistant Secretary for Health and Welfare (Medical)1 (PASHW(M)1) briefly explained the background of the subject. She pointed out that the HKDA agreed with the objective of the amendment, i.e., to allow a dental hygienist to be employed by an organisation/establishment employing a registered dentist. She said that the Administration would reply to Dr LEONG's letter as soon as possible and report to the Panel next month the action taken by the Administration to address the concerns of HKDA.

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8. Members noted that the Administration had provided information papers on the following subjects for discussion by the Panel at a future meeting if members so wished -

- (a) Veterinary Laboratory at Tai Lung in Sheung Shui;
- (b) Issues discussed by the Health and Medical Development Advisory Committee; and
- (c) The work of the Advisory Council on AIDs.

The Chairman requested members to consider whether they wished to discuss the subjects. Dr LEONG Che-hung said that he wished to discuss (b) and (c). In addition, he referred to the List of Follow-up Actions by the Administration and suggested that the Panel should go through it with the Administration. Members agreed to hold an additional meeting on 29 February 2000 at 8:30 am. The Chairman requested the Clerk to arrange the agenda items for the next two meetings.

**III. Registration of ancillary dental personnel (ADP)**  
(LC Paper Nos. CB(2)1038/99-00(03) and (04))

9. PAS(HW)(M)1 said that further to the discussion of the subject at the Panel meeting on 13 December 1999, the Administration now proposed to introduce an enrolment system for dental technicians (DTechs) and to require dentists to provide proper training to their dental surgery assistants (DSAs). PAS(HW)(M)1 further said that since dental therapists

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(DTs) were only employed by DH to provide school dental services and worked under the direct supervision of the DH dental officers, the Administration considered it unnecessary to introduce an additional regulatory system for them.

10. The Chairman considered that no private medical institution had employed DTs because the private sector was not allowed by law to employ DTs. However, he saw no reason why the private sector should not be allowed to do so. He reminded the Administration of the case of dental hygienists who could also be employed by the private sector now. In response, PAS(HW)(M)1 explained that since DTs were trained to perform minor dental work for those aged below 18, they served mainly school children and such services were provided by DH now. However, the Chairman pointed out that it was a chicken and egg situation. He considered that if the law was amended to the effect that DTs were also allowed to be employed by private medical institutions to perform minor dental work under the supervision of dentists, there might be demands for them in the private market. He considered it unreasonable for the Administration to have put in place conditions preventing the private medical sector from hiring DTs. He urged the Administration to re-consider the policy.

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11. Dr LEONG Che-hung expressed reservations about the proposal of introducing a statutory registration system for DTechs, who were mainly responsible for the fabrication of dental prostheses. In response to Dr LEONG's question, PAS(HW)(M)1 said that if the proposed registration system was introduced, dentists could still use imported dental prostheses. As to whether a dentist using dental prostheses made by unregistered DTechs would be considered as breaking the law, PAS(HW)(M)1 said that the Administration would need to further consult the concerned parties on details of the enrolment system. She stressed that in any case the dentists were responsible for ensuring the quality of the dental appliances before fitting them into the oral cavity of patients. However, unregistered DTechs fabricating dental appliances and supplying them to dentist would break the law. Dr LEONG Che-hung expressed dissatisfaction with the inadequate information provided by the Administration which had made it difficult for members to deliberate the proposal.

12. The Chairman said that he found it confusing as to whether the Administration intended to introduce a registration system or an enrolment system for DTechs. PAS(HW)(M)1 clarified that the Administration proposed to introduce an enrolment system. She pointed out that once members had expressed support for the direction of the proposal, the Administration would proceed to work out the implementation details in consultation with the concerned parties. Dr LEONG Che-hung considered that so long as dentists were allowed to use imported dental prostheses, the proposed enrolment system would have no regulatory effect on the quality of the service. PAS(HW)(M)1 confirmed that under the proposal, dentists would be allowed to use imported dental prostheses provided that the dentists were satisfied that they were suitable for use.

13. Mr LAW Chi-kwong considered that it was still very confusing as to whether the

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Administration was proposing to introduce an enrolment system or a registration system for DTechs. PAS(HW)(M)1 clarified that the Administration was proposing an enrolment system and that under this system, the local fabrication of dental prostheses would be required to be done only by enrolled DTechs.

14. Dr LEONG Che-hung remained of the view that the proposal would have no regulatory effect since dentists could still use imported dental prostheses. However, the Chairman took the view the proposed system would at least serve to ensure the standard of the locally fabricated dental prostheses.

15. The Chairman welcomed the Administration's proposal of improving training provided to DSAs. As regards the Administration's schedule for implementing the improvements, PAS(HW)(M)1 said that the Administration would discuss and agree with dentists and the DSAs on the details, as described in paragraph 5 of the Administration's paper, as soon as possible. The Chairman considered that as the subject had already been repeatedly discussed, it should not take long for the Administration to work out the details. He requested the Administration to provide a progress report on the subject three months later.

16. Dr LEONG Che-hung requested the Administration to clarify why the title of the Administration's paper was "Registration of ADP" while there was actually no proposal of introducing any registration system for ADP. PAS(HW)(M)1 explained that it was because the subject had been discussed for months and all along this title had been used. She agreed to revise the title of future submissions to reflect more accurately the content of the paper. Dr LEONG further asked whether or not the proposed enrolment of DTechs would be on a voluntary basis. PAS(HW)(M)1 said that if it was not made compulsory, it would be difficult to achieve any regulatory effect. In response to Mr LAW Chi-kwong's question, PAS(HW)(M)1 said that under the proposed enrolment system, the DTechs applying to get enrolled would be required to have completed a prescribed level of training and reached a certain standard. However, Mr LAW Chi-kwong pointed out that if it was the case, the Administration was actually proposing a registration system for DTechs and not an enrolment system.

17. The Chairman requested the Administration to provide further information after the meeting to clarify whether a registration system or an enrolment system was proposed for DTechs and whether the system to be introduced was meant to be voluntary or compulsory. In addition, the Administration should re-consider the case of DTs and the need to introduce a regulatory system for them. The Administration should also provide details of its plan for improving the training provided to DSAs three months later.

**IV. Enforcement of the Smoking (Public Health) (Amendment) Ordinance 1997**

(LC Paper Nos. CB(2)1038/99-00(05) to (07))

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18. Principal Assistant Secretary for Health and Welfare (Medical) 3 (PAS(HW)(M)3) briefed members on the Administration's paper, in particular, the relevant agencies responsible for enforcing and promulgating the provisions in the Amendment Ordinance. He pointed out that the Administration had detected enforcement problems in certain areas of the Amendment Ordinance and it was now exploring the possibility of establishing a Tobacco Control Office under the auspices of DH. The Administration was seeking the views of the Council on Smoking and Health (COSH). As a policy review paper on the subject was being prepared, the Administration also wished to seek members' views.

19. Mr Fred LI Wah-ming pointed out that there were still many people smoking in shopping malls, lifts and designated no smoking areas within restaurants. He asked why there had not been any prosecutions made against such offenders since the implementation of the Amendment Ordinance. He took the view that the Administration had been ineffective in enforcing the relevant provisions. He was dissatisfied that there was not even a government department tasked to assume overall responsibility of enforcing the legislation. He suggested the Administration to send some plain-clothes officers to conduct inspections and prosecute those who smoked in designated no smoking areas.

20. PAS(HW)(M)3 explained that it was clearly stipulated in the law that managers of premises like shopping malls, restaurants and department stores were the primary enforcement agencies of the no smoking regulation in their respective premises. He pointed out that prior to the enactment of the relevant provisions, the Administration had already written to the management of these premises and met with them to explain the details of the no smoking requirements. The Administration had also explained to them the authority conferred upon them under the Amendment Ordinance in enforcing the no smoking requirement in the premises. As to the role of the police, PAS(HW)(M)3 said that while the police would not take the initiative to investigate and prosecute, they would provide support and assistance when offenders refused to co-operate and when managers were in need of help.

21. PAS(HW)(M)3 said that the Administration was satisfied with the current approach taken by managers of premises in stopping people from smoking in designated non-smoking areas, that was, by alerting them of the no smoking requirement first. He pointed out that based on actual experience, most of the people concerned were willing to extinguish their cigarettes when they were asked to do so by the management staff there.

22. PAS(HW)(M)3 said that the Administration was monitoring the situation and if it remained unsatisfactory, the Administration would consider setting up an inspection team under the proposed Tobacco Control Office to assist the management of those no

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smoking premises in enforcing the no smoking requirement. However, he highlighted that even if such an inspection team was set up, the primary responsibility of enforcement would remain with the managers of the premises. PAS(HW)(M)3 also clarified that there had been prosecutions made against people found smoking inside lifts. The reason for no prosecutions made against people smoking inside shopping malls over the past 18 months was that in most cases these people were willing to extinguish their cigarettes after being warned by the management staff.

23. However, Mr Fred LI Wah-ming said that actual experience had shown that the management staff of the premises were unwilling to interfere when they found people smoking inside their premises for fear of getting into trouble or offending their customers. He felt that the Administration was aware of this plain fact but it had just ignored it. He also believed that many of the offenders were actually well aware of the no smoking requirement but they had ignored it since it was not actively enforced by the Government. He urged the Administration to step up its enforcement efforts and inspect those black spots pointed out in the submission of COSH. PAS(HW)(M)3 said that the Administration had gathered information on the black spots and undertook that if the proposed inspection team was set up, it would give priority to inspecting those areas. PAS(HW)(M)3 added that the Administration would work out the details of the inspection team with DH, such as the duties and appropriate size of the team. In addition, the Department of Justice (DJ) was being consulted on the possibility of empowering the team to prosecute offenders. On the unwillingness of the management staff to offend their customers smoking in no-smoking area, PAS(HW)M3 pointed out that the management staff were also dutybound to safeguard the interest of customers who were non-smokers. By refusing to enforce the no smoking requirement in their premises, they also ran the risk of offending their non-smoking customers.

24. Dr LEONG Che-hung requested the Administration to explain what kind of power was conferred upon the management staff under the Amendment Ordinance in enforcing the no smoking requirement in their premises. He also asked what action had been taken by the police in response to complaints or requests for assistance made to them. In reply, PAS(HW)(M)3 said that the authority conferred upon the management staff of the premises in enforcing the no smoking requirement had been clearly stipulated in the law. They had the power to warn smokers and to inspect their identity cards and copy down their personal particulars. As a last resort, the management staff could detain the smokers, by the use of reasonable force, and call for the police to assist. The police on arrival would require the smokers to extinguish their cigarettes. However, if the smokers refused to do so, they would be taken away to the police station and prosecuted.

25. Dr LEONG Che-hung requested the Administration to explain the role and functions of the proposed inspection team and why Singapore had been so successful in enforcing no smoking regulations in shopping malls. PAS(HW)(M)3 replied that



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the inspection team would be collaborating with managers of public premises with designated non-smoking areas in the enforcement of the regulation. He said that the Health and Welfare Bureau (HWB) intended to give the team the power to prosecute those who smoked in restricted areas. Pending the legal advice from DJ, the Administration would further confirm whether the team would be empowered to do so. As regards the case of Singapore, he was given to understand that it had devoted considerable resources for the enforcement of the relevant regulations and on public education. It had also set up specialized teams for the tasks. In addition, detailed guidelines had been provided to managers of the shopping centres there on how to effectively enforce the relevant regulations. He pointed out that the proposed inspection team could introduce similar initiatives to facilitate effective enforcement of the regulation by managers of the public premises.

26. Dr LEONG Che-hung further asked what action had been taken by the Administration to tackle the problem of many cigar products found bearing no health warnings. PAS(HW)(M)3 replied that the Administration had stepped up inspections of cigar shops and warning letters had been issued to those found failing to observe the requirement for health warnings on cigar products. He said noticeable improvements had been made in the situation as a result of the efforts made.

27. Mr YEUNG Yiu-chung commented that very often the boundaries of smoking and non-smoking areas in restaurants were unclear. He asked whether the Administration would consider introducing a complete ban on smoking in all public areas. PAS(HW)(M)3 replied that the Administration's target was to minimize the problem of non-smokers being forced to suffer from passive smoking indoor. He added that the Administration might consider expanding no smoking areas, such as requiring restaurants to designate more than one-third of their seats as non-smoking area.

28. Mr LAW Chi-kwong supported introducing a complete ban on smoking in all public areas in view of the enforcement difficulties encountered. He took the view that since it had been stipulated in the law that it was an offence to smoke in designated no smoking areas and that the law had already been implemented for quite some time, it was time for the Administration to tighten up its control by prosecuting the offenders. Dr YEUNG Sum shared similar views and pointed out that it was wasteful of resources to set up an inspection team. Instead, he supported introducing a complete ban on smoking in all public areas. PAS(HW)(M)3 said the Administration would take note of members' views in the future review of the effectiveness of the relevant legislation. He further pointed out that by proposing to set up an inspection team with proper delegated authority, the Administration was disseminating a clear message to the public that it was determined to step up enforcement of the regulation. He further added that even if a complete ban on smoking were to be introduced, the issue of effective enforcement would still have to be addressed.

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Adm 29. In response to Mr Fred LI Wah-ming's question, PAS(HW)(M)3 confirmed that the corridor areas outside toilets in shopping malls were also non-smoking areas since they were part of the premises. Mr LI pointed out that the problem of smoking in these areas was very serious and urged the Administration to address the problem.

Adm 30. Senior Assistant Legal Adviser advised that under the existing legislation, managers of no smoking areas or any persons authorized by the managers to enforce the no smoking regulation were the enforcement agencies of the regulation in these premises. In concluding the discussion, the Chairman urged the Administration to review the enforcement problems encountered and tighten up the control of smoking in restricted areas to protect the health of the public.

**V. Process of registration of new pharmaceutical products**  
(LC Papers Nos. CB(2)1038/99-00(08) and (09))

31. At the Chairman's invitation, Mr Robert SIU of the Hong Kong Association of the Pharmaceutical Industry (HKAPI) said that since the introduction of new registration procedures in early 1999, delay had been found in the processing of applications for registration of new pharmaceutical products. HKAPI made the following suggestions to improve the situation -

- (a) Regular meetings should be held by the Pharmacy and Poisons Board (the Board) to facilitate manufacturers/importers to better plan the time frame for submitting their applications for registration of pharmaceutical products;
- (b) In processing a batch of applications for registration, the Board should handle those applications found with problems separately to avoid holding up the other applications in the same batch; and
- (c) At present, it was found that the legal classification of pharmaceutical products took about 10-plus weeks. To avoid delaying the registration process, the classification should be done faster.

Adm 32. Invited by the Chairman's to respond, Atg DD(H) said that at present the Board conducted meetings at about three-month intervals. Furthermore, she pointed out that the Registration Committee and Poisons Committee had already conducted meetings quite frequently and in a co-ordinated manner with a view to expediting the registration and classification process. She agreed that the system could be improved by, for example, pre-fixing a regular meeting schedule and by informing the pharmaceutical industry of the schedule. She would reflect the views of HKAPI to the Board and review the meeting schedules.

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33. The Chairman took the view that the Board was obliged to improve its operation to ensure that there would be no delay in the registration of new pharmaceutical products. As to what could be done by the Administration in this regard, Atg DD(H) said that as DH was responsible for providing secretarial support to the Board, she would reflect the views of HKAPI to the Board and improve the coordination of the respective meeting schedules of the Board and its committees as far as possible. PAS(HW)(M)1 said that DH would advise the Board to ensure that there would be no unnecessary delay in the registration process.

34. Mr Fred LI Wah-ming referred to the submission of HKAPI and queried why it had taken 15 weeks for processing the relevant legislative amendments after approval was granted by the Board to an application for registration. PAS(HW)(M)1 clarified that the legislative process usually took about three months, depending on the complexity of the amendment work. She said that normally LegCo Members also needed to take some time for deliberations before approving the legislative amendments. However, the Chairman pointed out that only 12 clear days' notice was required for a Government motion seeking amendments to subsidiary legislation. He said that it must be clarified that it was not LegCo that had held up the registration process but the administrative procedures of the Government that had caused the delay. He further said that he had looked at previous cases and found that LegCo had seldom sought to extend the period for Members' scrutiny of these legislative amendments related to the Pharmacy and Poisons Regulations and the Poisons List Regulations. Dr LEONG Che-hung shared the same view and pointed out as far as he could remember, since 1988 LegCo had not asked for extension of the period allowed for positive vetting and therefore it had never caused delay in approving the legislative amendments related to these matters.

35. In response, PAS(HW)(M)1 clarified that she did not mean that it was LegCo that held up the amendment exercise. She explained that the legislative process involved the preparation of drafting instructions and legislative instrument and other scrutiny work by HWB. However, she stressed if the required amendments were relatively simple, the Administration would try its best to shorten the legislative process and it had no intention to hold up anything.

36. Mr LEE Wing-tat referred to the information provided by HKAPI and expressed doubt as to why, in the case quoted by HKAPI, it had taken three weeks for DH to prepare the drafting instructions. In addition, he considered that the members of the Board were obliged to attend the meetings of the Board no matter how frequent they were. If any of the Board members had a very low attendance rate, the Government should re-consider the member's suitability for renewal of his appointment. He further suggested inviting the chairman of the Board to discuss with the Panel if the Board could not make improvements in its operation. PAS(HW)(M)1 pointed out that the schedule of work referred to by Mr LEE was

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compiled by HKAPI and clarified that in general it took 12 weeks, instead of 15 weeks, for completing the legislative process. She agreed that the registration process might be improved by reviewing the operation and frequency of meetings of the Board. She said that DH would follow up the matter. Dr LEONG Che-hung considered that instead of only reflecting the views of HKAPI and members of the Panel to the Board, the Administration should take the initiative to find out the operational problems of the Board and seek the necessary improvements.

37. Mr Benard CHAN pointed out that many pharmaceutical products unregistered with the Board were available for sale on the Internet and sought HKAPI's views on this. Mr Robert SIU said that overseas countries also encountered difficulties in enforcement of such sale of unregistered products on the Internet. He believed that if the registration process of pharmaceutical products could be expedited, the problem might be improved to some extent. Atg DD(H) said that the import and sale of unregistered pharmaceutical products were in violation of the law. However, as the delivery of the products to customers was by post, she admitted that the Administration would have difficulty in dealing with such offences. The Chairman directed that the matter should be discussed on another occasion as it was outside the scope of the subject under discussion.

38. Dr LEONG Che-hung suggested the Administration to consider amending the relevant legislation so that patent right would also be considered by the Board in approving applications for registration of pharmaceutical products. Atg DD(H) said that the Board had discussed the patent right issue on many occasions and the views of the Department of Intellectual Property and Department of Justice had been sought. She pointed out that, as the law provided, the Board approved applications for registration of pharmaceutical products based on three criteria : safety, efficacy and quality. She explained that the composition of the Board, its primary functions as well as the appropriateness and practicability would have to be considered if the Board was required to perform additional functions such as scrutinizing whether the registration of a new pharmaceutical product would involve infringement upon the patent right of a medicine. Dr LEONG requested the Administration to follow up the matter and suggested to put in place an honour system requiring an applicant for registration to complete a form stating whether the registration of his pharmaceutical product would infringe upon the patent right of a medicine. At the suggestion of Mrs Selina CHOW LIANG Shuk-ye, the Chairman requested the Administration to provide information as to whether the Administration had ever invoked the Patent Ordinance to take proceedings against sellers of drugs that infringed upon patent right. PAS(HW)(M)1 agreed.

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39. Mrs Selina CHOW LIANG Shuk-ye requested the Administration to clarify which parts of the legislative process for regulating pharmaceutical products were actually under the control of the Administration, which could be expedited if the relevant procedures were streamlined. PAS(HW)(M)1 responded that the process

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started with the preparation of the drafting instructions by DH and legislative instruments by the Department of Justice. Afterwards, the legislative amendments had to be endorsed by the Board and SHW would then move a resolution before LegCo for the approval of the legislative amendments. She assured members that the Administration would actively review the meeting schedules of the Board and its committees as well as the legislative process to seek better coordination with a view to expediting the registration process.

40. Mrs Selina CHOW LIANG Shuk-yee suggested the Panel to go into greater detail the operation of the Board at a future meeting to address the growing concerns of the sector about the problem of medical domination on the Board and inadequate representation of the interests of the sector on the Board. Atg DD(H) pointed out that the membership of the Board and its committees all included pharmacists. She added that as the Pharmacy and Poisons Ordinance (Cap. 138) was under review, the Administration would make improvements where necessary.

**VI. Traffic accident outside Lady Trench Polyclinic**

(LC Papers Nos. CB(2)1038/99-00(10) and CB(2)1068/99-00(01))

41. Mr LEE Wing-tat referred to the minutes of Departmental Consultative Committee meeting on 18 August 1999 and pointed out that, as recorded therein, DH actually did not encourage its health care staff to provide emergency treatment for persons injured outside DH clinics. He queried why the chairman of the meeting, as well as an Assistant Director of Health, had given the advice as such a stance was against the public expectation that the primary duty of clinic staff was life-saving. He urged DH to review its guidelines on the subject and make necessary amendments.

42. Atg DD(H) briefed members on the background of the discussions at the quoted Departmental Consultative Committee meeting and made the following points

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- (a) The views expressed were in the context of a specific case being discussed at the meeting which involved request to provide outreach emergency service to a member of the public in his residence. The minutes of the meeting were circulated to staff as such, and not in the form of a guideline;
- (b) In principle, clinic staff owed a duty primarily to clients within the clinics;
- (c) However, in case clinic staff was approached by members of the public to provide emergency treatment for persons injured outside the clinic, the staff should exercise discretion, taking into consideration the professional judgment of the prevailing circumstances, to see if they could provide

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assistance to the injured;

- (d) Following the traffic accident outside Lady Trench Polyclinic, DH had met the clinic staff concerned to review the case. In the discussion, the staff concerned had accepted that they had not handled the case appropriately and they should have tried to obtain more details of the incident on the spot;
- (e) DH had already issued a departmental circular to assist staff to decide systematically and quickly when handling such situations. It was stated in the circular that medical and nursing colleagues discharging their professional obligations to injured persons outside their clinics would be regarded as if they were on duty.

43. Referring to paragraph 26 of the minutes of the Medical and Dental Officers Grades Consultative Committee of DH held on 12 March 1999, the Chairman queried why the chairman of that meeting had advised that "provided that the doctor concerned acted in good faith in refusing such requests (for emergency treatment to those who got injured in accidents happened outside their clinics), DH would defend the doctor against any criticism." In response, Atg DD(H) explained that the advice was given in the context of a specific example being discussed at the meeting. It was not meant to discourage staff from providing assistance in general. She reiterated that DH had recently issued a circular to assist staff in handling such situations and she would provide a copy of the circular to members for reference. At the request of Miss CHAN Yuen-han, Atg DD(H) agreed to provide information on previous cases in which persons accidentally injured in the vicinity of the clinics had requested for emergency treatment.

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44. Atg DD(H) agreed with the members that in taking care of clients, clinic staff should prioritize in terms of urgency of the clinical condition. Therefore, when they were informed that persons were accidentally injured outside the clinic and approached by members of the public for assistance, the staff should try to obtain more details of the accident and assess the emergency of the situation. If the situation warranted, emergency treatment should be provided to the injured. At the same time, other staff of the clinic should be informed so that they could provide the necessary support to avoid causing undue delay to treatments to other patients inside the clinic. She said that these were set out in the aforesaid circular. Members also considered that it was not a justifiable reason to reject such requests for emergency treatment simply because the clinic staff were not within easy access to the necessary medical equipment for providing the treatment. They pointed out that it did not need very sophisticated medical equipment to provide emergency treatment and there should always be handy life-saving equipment available in public clinics.

45. Referring to this traffic accident outside Lady Trench Polyclinic, Dr LEONG

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Che-hung asked whether DH had made any clarifications on behalf of the clinic staff concerned in response to the criticisms made by the public. Atg DD(H) said that DH in answering general queries from the media had already pointed out that in principle, clinic staff owed a duty primarily to clients within the clinics. Atg DD(H) said that following review of the incident, the clinic staff concerned had admitted that they could have responded better if they had tried to obtain more details of the accident first such as the exact location of the accident and the conditions of the injured.

46. The meeting ended at 10:45 am.

Legislative Council Secretariat

9 March 2000