

立法會
Legislative Council

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LC Paper No. CB(2) 473/03-04
(These minutes have been seen by
the Administration)

**Subcommittee on Commencement Notices under
the Chinese Medicine Ordinance, Chinese Medicine (Fees) Regulation and
Chinese Medicines Regulation**

**Minutes of meeting
held on Monday, 10 November 2003 at 2:30 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Cyd HO Sau-lan (Chairman)
Hon Margaret NG
Hon LEUNG Yiu-chung
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok, JP
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : Miss Angela LUK
Principal Assistant Secretary for Health, Welfare and Food
- Dr Constance CHAN
Assistant Director of Health
- Miss Miranda NG
Senior Assistant Law Draftsman
Department of Justice
- Mr Freely CHENG
Assistant Secretary for Health, Welfare and Food

Clerk in attendance : Mrs Constance LI
Chief Assistant Secretary (2)5

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Miss Lolita SHEK
Senior Assistant Secretary (2)7

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I Election of Chairman

Ms Cyd HO was elected Chairman of the Subcommittee.

II. Meeting with the Administration

[LC Paper Nos. CB(2) 252/03-04(02)-(03)]

2. The Subcommittee deliberated (Index of proceedings attached at **Annex**).
3. Miss Margaret NG declared that she represented an individual who had lodged an appeal against the decision of the Chinese Medicine Practitioners Board in accordance with section 97 of the Chinese Medicine Ordinance (Cap. 549).
4. Mr LEUNG Yiu-chung declared that he was the consultant of the Hong Kong Chinese Medicine Practitioners' Rights General Union.
5. The Chairman, Miss Margaret NG and Mr LEUNG Yiu-chung expressed reservations that the provisions referred to in the Chinese Medicine Ordinance (Cap. 549) (Commencement) (No. 2) Notice 2003, Chinese Medicine (Fees) Regulation (Cap. 549 sub. leg. E) (Commencement) (No. 2) Notice 2003 and the Chinese Medicines Regulation (Cap. 549 sub. leg. F) (Commencement) (No. 2) Notice 2003 were ready to come into operation. They pointed out that they had received complaints concerning the registration system for Chinese medicine practitioners under the Chinese Medicine Ordinance. They considered that since the arrangements to be adopted under the registration system for proprietary Chinese medicines (PCMs) were similar to those for Chinese medicine practitioners, problems would also arise in the operation of the registration system of PCMs.
6. These members were of the view that since there were problems in the implementation of the Ordinance and its subsidiary legislation, the remaining provisions in the Ordinance and Regulations should come into operation only after the following concerns had been duly addressed -

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- (a) system of appointments to the Chinese Medicine Council and its Boards and Committees by the Chief Executive and Secretary for Health, Welfare and Food respectively, and the measures taken to ensure that the members appointed were suitable and capable persons who could achieve the objectives of the Council/Boards/Committees;
- (b) objectivity of the criteria and transparency of the procedure for approving or rejecting applications for registration; and
- (c) wide powers conferred on the Chinese Medicine Council and its Boards and Committees under the Ordinance, and remedial measures/appeal channel provided for applicants who were aggrieved with the decision of the Chinese Medicine Council on their initial appeals against the decision(s) of the Boards/Committees.

7. Ms LI Fung-ying expressed concern that the Administration had not consulted the trade on the commencement date of the provisions referred to in the three Commencement Notices. She pointed out that some of the manufacturers and traders of PCMs might require more time to prepare for the registration of their PCMs in order to meet the registration requirements.

8. Dr LO Wing-lok informed members that he was the Chairman of the Subcommittee formed to study the Chinese Medicines Regulation. He said that the Subcommittee had consulted the trade and discussed their views which were summarised in the record of Subcommittee meetings. He considered that the implementation of the registration system would not be as controversial as that for Chinese medicine practitioners. Nevertheless, Dr LO agreed that the concerns of LegCo Members and the trade should be addressed before the relevant provisions in the Ordinance and Regulations came into operation.

9. In response to Members' concerns, the Administration explained the purpose of the three Commencement Notices, the transitional arrangement for PCMs already in the market, the consultation conducted with the trade and the public, and the criteria for registration of PCMs which were detailed in the paper provided by the Administration (LC Paper No. CB(2)252/03-04(02)). The Administration also informed members that during consultation, the trade, the public and LegCo Members had indicated that they welcomed early implementation of the registration system for PCMs. Moreover, to address concerns of the trade over laboratory support, liaison had been made with the Mainland authority and local laboratories to ensure adequate support for the traders. Sufficient time would be allowed for the traders to prepare for submission of test reports.

10. The Administration also explained that the current appointment system for the Chinese Medicine Council and its Boards and Committees reflected the outcome of deliberations at LegCo leading to the enactment of the Ordinance. As provided for

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in the Ordinance, the Director of Health acted as the Chairman of the Chinese Medicines Board, while its members included experienced and esteemed persons in the trade, academicians, as well as lay persons.

11. After deliberations, members agreed to -

- (a) move amendments at the Council meeting on 26 November 2003 to repeal the three Commencement Notices, in order to allow more time for Members to discuss with the Administration to ensure that the provisions referred to in the Notices were ready to come into operation; and
- (b) recommend to the House Committee the setting up of a subcommittee to review the implementation of the Chinese Medicine Ordinance and the relevant Regulations, before the remaining provisions came into operation.

Admin 12. Members requested the Administration to provide the following information –

- (a) the criteria for appointment of members to the Chinese Medicine Council and its Boards and Committees, the tenure of office, the membership list and members' curriculum vitae, and the system for review of the performance of members;
- (b) sample of notices to unsuccessful applicants concerning the outcome of their applications for registration; and
- (c) remedial measures/appeal channel for applicants who were aggrieved with the decision of the Chinese Medicine Council on their initial appeals against the decision(s) of the Chinese Medicines Board/Committees.

III. Any other business

13. Members agreed that the Subcommittee should make a report to the House Committee on 14 November 2003.

(Post-meeting note : The Subcommittee conducted a meeting on 12 November 2003 to further discuss the way forward and follow up action required.)

14. There being no other business, the meeting ended at 4:00 pm.