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The Hong Kong Medical Association

FOUNDED IN 1920-INCORPORATED IN 1960 AS A COMPANY LIMITED BY GUARANTEE
MEMBER OF WORLD MEDICAL ASSOCIATION AND CONFEDERATION OF MEDICAL ASSOCIATIONS IN ASIA & OCEANIA

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**Submission of the Hong Kong Medical Association to the
Legislative Council for the Meeting on 12 July 2011**

**Re: Proposed Amendments on the Road Traffic Ordinance
(Cap.374)**

Thank you for the letter dated 24 June 2011 from Bills Committee inviting us to give our views on the Government's proposals to combat drug driving. The comments of the Hong Kong Medical Association (HKMA) are as follows:

Field Impairment Test (FIT)

The HKMA supports any objective and reliable preliminary test with high sensitivity and accuracy. With respect to the suggestion of empowering the police officer with the authority to take the Field Impairment Test (FIT) as the objective preliminary test (FIT), the HKMA suggests that it should be more appropriate if a doctor or even a forensic pathologist, do the test rather than the police if FIT must be done.

Nevertheless, the FIT does not meet the standards required as an objective preliminary test for its sensitivity and accuracy. Statistics¹ show that a sensitivity of 64% (*proportion of true positive case detected*) and a specificity of 74% (*proportion of true negative test detected*) and an accuracy of 66% (*proportion of cases that were correctly diagnosed in the study sample*). This is not an acceptable figure for a screening test. Besides, the lack of academic research and the low accuracy rate of the pupillary examination reported in the same report cast another worry on the HKMA to accept FIT as the objective screening test. In this regard, the HKMA suggested more data or local researches on testing FIT to ensure its sensitivity and accuracy as a screening test before implementation. The HKMA is contented to participate in and monitor the local researches. Although oral fluid or blood tests are found more preferable as far as sensitivity and accuracy is concerned, the HKMA recommends blood test without the proposed preliminary FIT since the existing oral fluid testing devices cannot detect the most popular abuse drug of ketamine.

¹ Department of Transport, Road Safety Research Report No. 63: Monitoring the Effectiveness of UK Field Impairment Tests", 2006



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Definition of doctor in the proposed amendment bill

On Page 23 of the proposed amendment bill, included in the definition of healthcare professional is “(a) a medical practitioner”, which, as in other categories, should be more appropriately described as follows:

“(a) a registered medical practitioner as defined by Section 2(1) of the Medical Registration Ordinance (Cap. 161)”.

Proposed Amendments of Section 39 of Road Traffic Ordinance (Cap 374)

It proposes to delete the current part of section 39 of Cap.374 “to such an extent to be incapable of having proper control of the motor vehicle”, and to be amended by “driving under the influence of or when impaired by drugs” other than those “specified illicit drugs”.

Our Association shows full support to ‘zero-tolerance’ to illicit drugs; however, our Association prefers to retain the proposed part to be deleted, i.e. “to such an extent as to be incapable of having proper control of the motor vehicle”, and not to accept the amendment “driving under the influence of or when impaired by drugs” other than those “specified illicit drugs”. Since blood pressure pills and antidiabetic medications can give rise to driving impairment when the disease is not well controlled; and the responses to each person are totally different not to mention unexpected situations, the HKMA recommends an illicit drug list which shall be updated from time to time in conformity with a well-structured but simple system.

There is one further concern of the HKMA in accepting the proposed amendment “driving under the influence of or when impaired by drugs” other than those “specified illicit drugs” in section 39 of Cap 374.

Referring to the letter dated 27 July 2010 from the Secretary for Transport and Housing Bureau relating to the initial proposal on section 39 of Cap.374, it suggests in a(i) that the presence of any amount of these illicit drugs in the body of driver should constitute an offence. Drugs refer to those are most commonly in abusive use but seldom in medical use, i.e. heroine, ketamine, methamphetamine, cannabis, cocaine, 3,4-methylenedioxymethamphetamine, which are listed in Schedule 1A of Cap. 374 and updated from time to time and; a(ii) that driving under the influence of or when impaired by drugs. It will act as a defence if there is proof that the driver does not know and could not reasonably have known the permissible non-prescription drug or the prescription drug, or the combination of those drugs, so found in this body would impair driving if consumed or used according to medical advice. The



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defence available may induce the driver who is prosecuted with the amended offence of “driving under the influence of or when impaired by drugs” other than those “specified illicit drugs”. The doctors might be unnecessarily accused of not explaining adequately to the drivers impaired by prescription drugs although they, usually, have informed their patients of the drugs, which were not compatible with driving.

As far as the defence by the driver claiming to have no knowledge that the drug taken would have impaired driving is concerned, the proposed deletion “to such an extent as to be incapable of having proper control of the motor vehicle” may make driving under the influence of any drugs an offence, irrespective of whether the drugs have indeed impaired the capability of control of the vehicle. The HKMA finds that it may induce the driver to put the blame on the doctor who prescribed the drugs and file a complaint to the Medical Council of Hong Kong.

Therefore, the HKMA advises retaining the proposed part “to such an extent as to be incapable of having proper control of the motor vehicle” in section 39 of Cap. 374.

Conclusion

The Hong Kong Medical Association shows utmost support to combat drug driving and will render assistance to any measures taken and participate in any activities by Government or any organizations in this aspect. The Association advises that preliminary FIT should be implemented only before more local data are available; and recommends FIT be taken by a doctor, or forensic pathologist other than the police before any policy is in force to collaborate with implementation. Last but not least, our Association is deeply concerned about the possible nuisance to the medical professions because of the proposed amendment to section 39 of Cap. 374. It would be highly appreciated if the Bills Committee can take our views into consideration before any further action.