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**Panel on Manpower**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 18 February 2014**

**Recognition of medical certificates issued by  
chiropractors under labour-related legislation**

**Purpose**

This paper gives an account of the past discussions of the Panel on Manpower ("the Panel") regarding the recognition of medical certificates issued by chiropractors under labour-related legislation since the Fourth Legislative Council ("LegCo").

**Background**

2. In 2005, the Chiropractic Doctors' Association of Hong Kong and the Hong Kong Chiropractors' Association put up a request for recognizing the medical certificates (commonly known as "sick leave certificates") issued by chiropractors under labour-related legislation<sup>1</sup>. The Administration in response set up an Inter-bureaux/departmental Working Group ("the Working Group") in November 2005 to conduct a study on the subject by taking into account the circumstances and chiropractic practices in Hong Kong, various surveys on chiropractic treatment, experiences of other jurisdictions and views of stakeholders.

3. According to the Administration, the Working Group submitted the study report in December 2009 which set out the stance of not recommending the recognition of the medical certificates issued by chiropractors under

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<sup>1</sup> At present, not all statutorily registered medical professions are recognized for issuing medical certificates under labour-related laws. Only certificates issued by medical practitioners registered under the Medical Registration Ordinance (Cap. 161), registered Chinese medicine practitioners and dentists are authorized to issue medical certificates to entitle employees to statutory benefits such as sickness allowance, subject to stipulated conditions.

labour-related legislation. The Labour Advisory Board and the Panel were briefed on the findings of the Working Group on the study on recognition of medical certificates issued by chiropractors under labour legislation and the Administration's views on the subject in May and June 2011 respectively.

### **Deliberations of the Panel**

Whether the medical certificates issued by practitioners of a healthcare sector should be recognized under labour-related legislation

4. Noting that the Administration agreed to the Working Group's recommendation of not recognizing medical certificates issued by chiropractors, most members expressed the view that they could not see the reason for the Administration's refusal to recognize the medical certificates issued by chiropractors. These members considered that the practising qualification and registration of chiropractors were subject to the statutory regime provided for under the Chiropractors Registration Ordinance (Cap. 428), which came into full operation on 13 February 2003. Pointing out that injured employees could claim reimbursement for the cost of chiropractic treatment under the Employees' Compensation Ordinance (Cap. 282) ("ECO"), members were of the view that the policy of not recognizing medical certificates issued by chiropractors under labour-related legislation was discriminatory and unreasonable.

5. The Administration explained that the main purpose of establishing a mandatory registration system for a particular type of healthcare practitioners<sup>2</sup> was to eliminate laypersons in the performance of the concerned healthcare functions. Whether the practitioners could issue medical certificates under labour-related legislation was a separate issue. If the medical certificates issued by chiropractors were to be covered under labour-related legislation, there would be read-across implications and similar demands might be raised by other types of healthcare practitioners. It would have a significant impact on the existing employees' compensation system.

6. The Administration further explained that the provision in ECO permitting an injured employee to reimburse from his employer medical expenses for treatment of work injury by registered chiropractors was only concerned with the treatment given, whereas the issuance of medical certificates under labour-related legislation involved further judgement by the concerned medical professional on

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<sup>2</sup> At present, there are 12 types of health care professionals that are required to complete statutory registration before they are allowed to practise in Hong Kong. These professions are medical practitioners, dentists, Chinese medicine practitioners, midwives, nurses, pharmacists, medical laboratory technologists, occupational therapists, optometrists, radiographers, physiotherapists and chiropractors.

whether the sickness of the employee was to such an extent that he needed to take a rest and was temporarily unfit for work. Even though injured employees could claim reimbursement for the cost of chiropractic treatment under ECO, according to the findings of two surveys conducted by the Labour Department ("LD") on injured employees who called on LD for sick leave clearance in October 2007 and November 2010, it was revealed that only 0.5% and 2.9% of the injured employees had sought chiropractic treatment. This showed that the prevalence of chiropractic treatment in Hong Kong was low and only a small number of citizens had sought chiropractic treatment.

7. The Administration stressed that the Working Group had taken into account a host of factors in arriving at its recommendations. Notably, there were significant differences in the approaches adopted by different countries in dealing with chiropractic practices under labour-related laws and social security systems. Moreover, chiropractic lacked ethnic root in the local Chinese community. As all chiropractors were engaged in private practice and there was a lack of local tertiary institutions providing chiropractic training, it would be difficult to identify neutral and independent authority to offer medical opinion or arbitrate disputes, if the medical certificates issued by a chiropractor were opposed to or challenged by the employer or insurer. In addition, employers and insurers would have to take on new legal obligations if the medical certificates of an additional type of healthcare practitioners were covered under labour-related legislation.

8. Members urged the Administration to be more proactive in assisting the chiropractor sector to address the issues of concern raised by the Working Group, such as explaining to the stakeholders, including employers and insurers underwriting employees' compensation insurance, their new legal obligations or liabilities. The Administration should also help or encourage the Chiropractors Council of Hong Kong ("CCHK") to expeditiously implement a system for maintaining medical records and to draw up guidelines for issuance of medical certificates, etc. so as to allay worries of liability-takers about the proposal and facilitate their work in monitoring the sick leave pattern of employees seeking chiropractic treatment.

9. The Administration advised that they had already brought the attention of the chiropractic sector to the public concerns in respect of chiropractic treatment, including the importance of maintaining medical records and the need to draw up guidelines for issuing medical certificates, etc. In its reply to a written question raised at the Council meeting of 20 February 2013, the Administration advised that CCHK had set up committees to draw up guidelines for the issuance of sick leave certificates and to review the "Code of Practice for the Guideline of Registered Chiropractors", including consideration of inclusion of a section on

handling medical records. Upon completion, the committees would submit their recommendations to CCHK for consideration.

### Community knowledge and acceptance

10. Some members pointed out that it had been widely accepted in many overseas countries, such as Canada and the United States, that chiropractic treatment using spinal manipulation was scientifically proven to be an effective, safe and cost effective treatment for common functional neuro-musculoskeletal disorders such as low back pain, neck pain and headache. The Administration should take measures to increase the utilization and promote the public acceptance of chiropractic service, with a view to setting a scene appropriate for recognizing medical certificates issued by chiropractors under labour-related legislation. Written questions were also raised at the Council meetings of 29 June 2011 and 20 February 2013 concerning whether the Hospital Authority ("HA") would consider afresh the introduction of public chiropractor service and whether the Administration had any plan to advise or encourage local tertiary institutions to offer chiropractic courses respectively.

11. According to the Administration, existing services provided by public hospitals and health issues handled by relevant allied health professionals already covered those handled by chiropractors. HA would consider new services and facilities in response to the demand of the public for different healthcare services. On the offer of chiropractic courses by local tertiary institutions, members were advised that the Administration kept an open mind on training programmes offered by local tertiary institutions for any healthcare disciplines. It was noteworthy that in the academic development planning exercise for the 2012-2013 to 2014-2015 triennium, the University Grants Committee had not received any application from its funded institutions for starting training programmes on chiropractic.

### Way forward

12. Most members were of the view that the reasons given by the Administration for not recognizing the medical certificates issued by chiropractors under labour-related legislation was unacceptable. They requested the Administration to review and consider amending the labour-related legislation, specifically the Employment Ordinance (Cap. 57) to cover the medical certificates issued by chiropractors. At the meeting on 17 June 2011, the Panel passed a motion urging the Government to expeditiously recognize, within the term of the Fourth LegCo, the medical certificates and sick leave certificates issued by chiropractors, and formulate a timetable in this respect.

13. Members were advised that the Administration maintained an open mind on the proposal and would continue to communicate with the stakeholders and closely monitor the latest development of chiropractic in Hong Kong and other regions. In its response to the motion passed by the Panel, the Administration reiterated that when considering whether the medical certificates issued by practitioners of a healthcare sector should be recognized under labour-related legislation, it had to take various factors into account. They included but were not limited to the following factors -

- (a) the scope, development and popularity of the healthcare sector;
- (b) the community knowledge and acceptance of the healthcare sector;
- (c) the views and concerns of stakeholders, including those who would take on new legal obligations;
- (d) the availability of sufficient ancillary facilities which could make the implementation of the proposal feasible; and
- (e) other regions' situation and experiences.

14. Members were also advised that in order to gauge an updated and thorough understanding of the community's knowledge and utilization of chiropractic treatment in Hong Kong, LD had commissioned the Census and Statistics Department to conduct a comprehensive survey, which was scheduled to be conducted in the second half of 2012. Members may wish to note that the survey findings were released on 8 November 2013.

### **Relevant papers**

15. A list of relevant papers on the LegCo website is in the **Appendix**.

## Appendix

### Relevant papers on Recognition of sick leave certificates issued by registered chiropractors as valid sick leave certificates

Committee	Date of meeting	Paper
Legislative Council	16.5.2007	<u>Official Record of Proceedings (Question 2)</u>
Legislative Council	9.7.2008	<u>Official Record of Proceedings (Question 7)</u>
Panel on Manpower	--	<u>CB(2)1867/10-11(01)</u>
Panel on Manpower	17.6.2011	<u>Agenda</u> <u>Minutes</u> <u>CB(2)2317/10-11(01)</u> <u>CB(2)2654/10-11(01)</u>
Legislative Council	29.6.2011	<u>Official Record of Proceedings (Questions 10 and 14)</u>
Legislative Council	20.2.2013	<u>Official Record of Proceedings (Question 19)</u>

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