

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2002/15-16  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/4/15

**Bills Committee on Medical Registration (Amendment) Bill 2016**

**Minutes of the third meeting**  
**held on Tuesday, 19 April 2016, at 8:30 am**  
**in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon Vincent FANG Kang, SBS, JP (Chairman)  
Hon Albert HO Chun-yan  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Dr Hon LEUNG Ka-lau  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, JP  
Hon YIU Si-wing, BBS  
Hon Charles Peter MOK, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Members absent** : Hon CHAN Han-pan, JP (Deputy Chairman)  
Hon Cyd HO Sau-lan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon WONG Yuk-man  
Hon Kenneth LEUNG  
Hon Dennis KWOK  
Dr Hon Elizabeth QUAT, JP  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP

**Public Officers attending** : Mr Richard YUEN Ming-fai, JP  
Permanent Secretary for Food & Health (Health)  
Food and Health Bureau

Mr Chris SUN Yuk-han, JP  
Head, Healthcare Planning and Development Office  
Food and Health Bureau

Mr FONG Ngai  
Principal Assistant Secretary for Food & Health (Health) 3  
Food and Health Bureau

Miss Natalie LAU Wai-kwan  
Assistant Secretary for Food & Health (Health) 8  
Food and Health Bureau

Miss Maggie CHOW Wan-kam  
Secretary, Medical Council of Hong Kong  
Department of Health

Mr Joseph SIU Wing-ho  
Deputy Secretary (Medical Council) 1  
Department of Health

Miss Cindy CHEUK Chi-wing  
Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Maisie LAM  
Chief Council Secretary (2) 5

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Ms Priscilla LAU  
Council Secretary (2) 5

Ms Louisa YU  
Legislative Assistant (2) 5

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**I. Meeting with the Administration**

[File Ref.: FHCR1/F/3261/92, LC Paper Nos. LS44/15-16, CB(2)1118/15-16(02) to (04), CB(2)1131/15-16(01), CB(2)1221/15-16(02) to (03), CB(2)1313/15-16(01) to (02), CB(2)1317/15-16(01) and CB(3)422/15-16]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

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2. The Bills Committee requested the Administration to:

- (a) in respect of the proposed four additional lay members to be appointed by the Chief Executive ("CE") on the Medical Council of Hong Kong ("the Medical Council"), who would come from among sectors representing patients' interests and consumers' interests according to the Administration's latest proposal,
  - (i) advise the distribution of the four seats among patient representatives and consumer representatives; and
  - (ii) provide concrete details of the proposed procedures for nomination of the respective representatives from patients groups and patient support groups, and from the Consumer Council for CE's appointment;
- (b) in respect of the Administration's latest proposal of converting the existing appointed seats of the two registered medical practitioners nominated by the Hong Kong Academy of Medicine ("the Academy of Medicine") to two elected seats to be filled by two registered medical practitioners being elected by the Council members of the Academy of Medicine, following similar

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arrangement for the seven elected members of the Hong Kong Medical Association ("the Medical Association"),

- (i) advise the nomination and election procedures adopted by the Medical Association for the filling of the seven elected seats of the Medical Council, as well as the composition of and election mechanism for the Council of the Medical Association;
  - (ii) advise the proposed nomination and election framework for the Academy of Medicine to fill the two proposed elected seats of the Medical Council, as well as the composition of and election mechanism for the Council of the Academy of Medicine; and
  - (iii) advise its position on whether the amendment to be proposed by the Administration to the Bill to effect the above proposal would be relevant to the subject matter of the Bill and to the subject matter of the clause to which it related as required under Rule 57(4)(a) of the Rules of Procedure;
- (c) in respect of the concerns raised by the Hong Kong Public Doctors' Association, Dr HO Pak-leung and Dr CHOI Kin on the bottlenecks that had hampered the operation of the current complaint investigation and disciplinary inquiry mechanism of the Medical Council (in particular, the seeking of expert opinion and the availability of members and the venue for conducting disciplinary inquiries) as set out in their submissions (LC Paper Nos. CB(2)1221/15-16(04) and (06) and CB(2)1250/15-16(03)),
- (i) provide, based on past statistics, information on the average time required of at different stages of complaint investigation and disciplinary inquiry; and
  - (ii) provide details of the administrative measures to be put in place by the Administration to improve the efficiency of the existing complaint investigation and disciplinary inquiry mechanism of the Medical Council, regardless of whether the Bill was passed or not.

**II. Any other business**

3. The Chairman reminded members that the next meeting of the Bills Committee would be held on Monday, 25 April 2016, at 4:30 pm.

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4. There being no other business, the meeting ended at 10:28 am.

Council Business Division 2  
Legislative Council Secretariat  
26 August 2016

**Proceedings of the third meeting of  
the Bills Committee on Medical Registration (Amendment) Bill 2016  
held on Tuesday, 19 April 2016, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000702 - 000855	Chairman	Opening remarks	
000856 - 001304	Chairman Admin	Briefing by the Administration on (a) its response to the follow-up action arising from the discussion at the meeting on 11 April 2016 [LC Paper No. CB(2)1313/15-16(02)]; and (b) its paper entitled "Medical Council of Hong Kong - Ratio of elected and appointed members and proposed composition of the four additional lay members" [LC Paper No. CB(2)1317/15-16(01)].	
001305 - 001819	Chairman Dr KWOK Ka-ki	<p>Dr KWOK Ka-ki's views that:</p> <p>(a) as the Bill would bring about some controversial changes to the complaint investigation and disciplinary inquiry mechanism of the Medical Council of Hong Kong ("the Medical Council"), it was incumbent upon members to study the Bill carefully but not in a hasty manner;</p> <p>(b) he was disappointed that the paper provided by the Administration had failed to provide concrete proposals on the procedures for nomination of the representatives from patients groups and patient support groups for appointment by the Chief Executive ("CE") to fill the proposed additional lay member seats of the Medical Council;</p> <p>(c) only about half of the registered medical practitioners were Fellows of the Hong Kong Academy of Medicine ("the Academy of Medicine"). The Administration's proposal to convert the two existing seats of the Medical Council to be filled by registered medical practitioner members nominated by the Academy of Medicine (who, under the existing arrangement, were nominated and elected by the Council of the Academy of Medicine) for appointment by CE to two seats to be filled by registered medical practitioner members elected by the Council of the Academy of Medicine could not increase the elected element in the composition of the Medical Council. The Bills Committee should invite views from the major stakeholders on this proposal;</p> <p>(d) to uphold the principle of professional autonomy, consideration should be given to reducing the number of registered medical practitioners nominated respectively by the University of Hong Kong ("HKU"), The Chinese University of Hong Kong ("CUHK"), the Hospital Authority ("HA") and the Academy of Medicine for</p>	

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		<p>appointment by CE from two to one each and the number of members elected by registered medical practitioners with full registration and limited registration be increased correspondingly by four; and</p> <p>(e) at present, there were only six staff members of the Medical Council Secretariat who were primarily or exclusively deployed to perform duties related to the handling of complaints and conducting of inquiries for the Medical Council. The annual staff cost of these staff was about \$4 million. The Administration should provide additional manpower resources to enhance the secretarial support to the Medical Council in this regard.</p>	
001820 - 002357	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chun's views that:</p> <p>(a) at least three among the four proposed additional lay member seats of the Medical Council should be filled by lay persons representing patients' interests;</p> <p>(b) the Administration should devise concrete measures to remove the nine bottlenecks that had hampered the current operation of the complaint investigation and disciplinary inquiry mechanism of Medical Council as identified by the Hong Kong Public Doctors Association in its submission (LC Paper No. CB(2)1221/15-16(04)); and</p> <p>(c) while the Administration's proposal to convert the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine could address the concern of some members of the medical profession over the ratio of appointed members and elected members in the Medical Council, there was a need for the Administration to further enhance the elected element in the proposal.</p> <p>The Administration's advice that:</p> <p>(a) it was in discussion with major patient groups and patient support groups on the number of lay members on the Medical Council who would be representing patients' interests and the nomination arrangements concerned. It would revert to the Bills Committee on the outcome of the discussion and consider, where appropriate, introduce Committee stage amendments ("CSAs") to the Bill in this regard;</p> <p>(b) the legislative proposals of enabling the Medical Council to have more than one legal adviser and establish more than one Preliminary Investigation Committee ("PIC") were aimed at shortening the time required by the Medical Council for complaint handling. The administrative procedures and practices to be adopted by the Medical Council to better perform its function in this regard would have to be decided by the Medical Council itself; and</p>	Admin

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		<p>(c) at present, the 14 elected registered medical practitioners of the Medical Council included seven registered medical practitioners who were members of the Hong Kong Medical Association ("the Medical Association") being elected by the Council members of the Medical Association, and another seven registered medical practitioners who were elected by registered medical practitioners with full registration and limited registration. The election arrangement under the proposal of converting the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine was similar to the election arrangement for the former.</p>	
002358 - 002911	Chairman Miss Alice MAK Admin	<p>Miss Alice MAK's concern about whether the Bill could be dealt with before the prorogation of the Fifth Legislative Council ("LegCo") despite the Administration's undertaking to introduce, where appropriate, CSAs to address the concerns of members.</p> <p>In response to Miss Alice MAK's enquiry, the Administration's advice that it would still provide additional manpower resources to the Medical Council Secretariat even if the Bill was not passed. This, however, could not help significantly shorten the time required by the Medical Council for handling complaints as there would be no change to the hurdles that the Medical Council could only have one Legal Adviser and establish one PIC, and have insufficient number of lay members to hear complaints.</p>	
002912 - 003452	Chairman Mr YIU Si-wing Admin	<p>Mr YIU Si-wing's view that the legislative proposal to increase the number of lay members on the Medical Council by four could serve as a first step to enhance lay participation in the Medical Council and, in turn, its creditability.</p> <p>In response to Mr YIU Si-wing's enquiry, the Administration's elaboration on the number of complaint cases whereby the registered medical practitioners concerned were found guilty of a disciplinary offence after an inquiry as set out in Annex C to LC Paper No. CB(2)1221/15-16(03).</p>	
003453 - 004032	Chairman Mr Tommy CHEUNG Admin	<p>Mr Tommy CHEUNG's expression of appreciation for CE and the Administration's efforts to work out swiftly a proposal to address the concern of some members of the medical profession on the ratio of appointed members to elected members in the Medical Council. In his view, all appointed registered medical practitioner members were of high professional standing who were able to act independently from political influence, if any.</p>	
004033 - 004654	Chairman Ms Emily LAU Admin	<p>Ms Emily LAU's call for the Administration to forge a majority consensus among the relevant stakeholders on how to take forward the Bill such that it could be dealt with before the prorogation of the Fifth LegCo.</p>	



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		<p>The Administration's response that its proposal to convert the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine was in response to the request of some members of the medical profession for maintaining an equal ratio of appointed members and elected members in the Medical Council. The proposal had taken into account the view of the Academy of Medicine that a general election from all Fellows for representation in the Medical Council would be perceived as disadvantageous towards candidates from those Colleges with fewer Fellows.</p>	
004655 - 005212	<p>Chairman Dr LEUNG Ka-lau Admin</p>	<p>Dr LEUNG Ka-lau's remarks that according to the outcome of his commissioned survey on the reform of the Medical Council, which was conducted by Public Opinion Programme of HKU, there was no urgency for passing the Bill in a hasty manner; and his view that many of the existing bottlenecks that had hampered the operation of the complaint investigation and disciplinary inquiry mechanism of Medical Council could be removed through administrative measures such as providing additional manpower resources to the Medical Council Secretariat and providing honorarium to experts who provided assistance to the investigation work at the PIC stage.</p> <p>The Administration's reiteration that it would provide additional manpower resources to the Medical Council Secretariat even if the Bill was not passed. This, however, could not help significantly shorten the time required by the Medical Council for handling complaints as there would be no change to the operation hurdles of the Medical Council.</p>	
005213 - 010024	<p>Chairman Mr IP Kin-yuen Admin ALA6</p>	<p>Mr IP Kin-yuen's view that it was important to maintain an equal ratio of appointed members and elected members in the Medical Council. Given that there was concern about the eligibility for nomination, candidacy and voting in the elections to fill the elected seats of the Medical Council, he requested the Administration to provide information on (a) the nomination and election procedures adopted by the Medical Association for the filling of the seven elected seats of the Medical Council, as well as the composition of and election mechanism for the Council of the Medical Association; and (b) the proposed nomination and election framework for the Academy of Medicine to fill the two proposed elected seats of the Medical Council, as well as the composition of and election mechanism for the Council of the Academy of Medicine.</p> <p>On Mr IP Kin-yuen's remarks about the power of CE in relation to the appointment of nominated registered medical practitioners as members of the Medical Council under section 3(2) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance") as elaborated by the Administration in paragraphs 2 to 5 of LC Paper CB(2)1221/15-16(03), the Legal Adviser to the Bills Committee's clarification that nomination by the Director of Health, HKU, CUHK, HA and the Academy of Medicine was a</p>	<p><b>Admin</b></p>

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		pre-condition for appointment by CE. It was a well-established principle in administrative law that if a decision maker took into account matters irrelevant to his or her decision, or refused or failed to take account of matters relevant to his or her decision, the court might set the decision aside in a judicial review.	
010025 - 010833	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's view that in the longer term, the complaint investigation and disciplinary inquiry function should be exercised by an independent body with a membership having a higher proportion of lay members; and his enquiry as to how far the legislative proposal of increasing the number of lay members on the Medical Council by four could shorten the time required by the Medical Council for handling complaints.</p> <p>The Administration's advice that apart from the proposed increase in the number of lay members on the Medical Council, the legislative proposals to increase the total number of assessors from 14 to 34, enable the Medical Council to have more than one legal adviser and establish more than one PIC, as well as the Administration's commitment to provide additional resources to strengthen the secretariat and legal support to the Medical Council would help shorten the time required by the Medical Council to handle complaints. It was estimated that after clearing the backlog of cases, the average handling time of a case would be shortened from 58 months to around 30 months.</p>	
010834 - 011353	Chairman Mr CHUNG Kwok-pan Admin	In response to Mr CHUNG Kwok-pan's enquiry about whether any administrative measures could be introduced to address the current local medical shortage problem in public hospitals, the Administration's advice that HA had encountered difficulty in attracting experienced non-locally trained medical practitioners to work in public hospitals under Limited Registration as the maximum term of registration and renewal of such registration was currently limited to not exceeding one year under the Ordinance.	
011354 - 012241	Chairman Mr Alan LEONG Admin	<p>Mr Alan LEONG's view that the issue at stake was how to ensure that the Administration's proposal to convert the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine could substantially, but not superficially, increase the elected element in the composition of the Medical Council for the purpose of maintaining an equal ratio of appointed members and elected members in the Medical Council.</p> <p>Mr Alan LEONG's enquiry as to the reason why the Administration did not propose to convert the existing appointed seats to be nominated by the Director of Health, HKU, CUHK and HA for appointment by CE to elected seats; and how the Administration could address the concern of some members of the medical profession that the Bill would enable the Medical Council to give green light to the admission of medical practitioners trained in the Mainland to practise in Hong Kong under the current term Government, as the decisions made by</p>	

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		<p>the appointed members might be tilted in favour of the Government.</p> <p>The Administration's advice that:</p> <p>(a) the medical practitioner members nominated respectively by the Director of Health, HKU, CUHK and HA were to represent the healthcare services regulatory authority, medical training institutions and the major provider of healthcare services as well as doctor and specialist training respectively. For the proposal of converting the two appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine, it should be noted that the existing seven elected seats to be taken up by registered medical practitioners who were members of the Medical Association were returned through election by the Council members of the Medical Association; and</p> <p>(b) to change the requirement that non-locally trained medical graduates had to pass the Licensing Examination administered by the Medical Council before they could register for practice in Hong Kong required separate amendments to the relevant sections of the Ordinance. At present, the standard of the Licensing Examination was set by HKU and CUHK and was consistent with that adopted by the two faculties of medicine in Hong Kong for assessing their medical graduates.</p>	
012242 - 013017	Chairman Mr Albert HO Admin	<p>Mr Albert HO's view that the Administration should seek the view of the Medical Association as early as possible on whether the election arrangements under the proposal to convert the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine could be regarded as a fair election.</p> <p>In response to Mr Albert HO's enquiry, the Administration's advice that there were about 200 bodies which were established as patient groups or patient support groups. It was discussing with the major patient groups and patient support groups on the nomination arrangements for filling the additional lay member seats for representing patients' interests.</p> <p>Mr Albert HO's concern about the bottlenecks that hampered the operation of the existing complaint investigation and disciplinary inquiry mechanism of the Medical Council as identified by some deputations at the meeting on 11 April 2016, in particular the difficulty in inviting experts to provide assistance to the investigation work and the venue for conducting disciplinary inquiries; and his request for the Administration to provide in writing:</p> <p>(a) based on past statistics, information on the average time required of at different stages of complaint investigation</p>	Admin

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		<p>and disciplinary inquiry; and</p> <p>(b) details of the administrative measures it would put in place to improve the efficiency of the complaint investigation and disciplinary inquiry, regardless of whether the Bill was passed or not.</p>	
013018 - 013617	Chairman Mr NG Leung-sing Admin	<p>Mr NG Leung-sing's view that the legislative proposal of extending the maximum term of limited registration and renewal of such registration would help addressing the current medical manpower constraint problem of public hospitals.</p> <p>In response to Mr NG Leung-sing's enquiry about the impact if the Bill was not passed, the Administration's advice that there would not be any remarkable improvement to the existing complaint investigation and disciplinary inquiry mechanism of the Medical Council and any means to attract more non-locally trained medical practitioners to work in public hospitals under Limited Registration. Separately, it should be noted that the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development would put forth its recommendations on how to better meet the projected manpower demand, and improve the regulatory regimes for healthcare professionals (including medical practitioners) in around mid 2016.</p>	
013618 - 013920	Chairman	<p>The Chairman's expression of support to the legislative proposal of increasing the number of lay members on the Medical Council which, in his view, could enhance its credibility, as well as the Administration's proposal to convert the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine.</p>	
013921 - 014157	Chairman Mr Tommy CHEUNG Admin	<p>Mr Tommy CHEUNG's view that the passage of the Bill could serve as an initial step to reform the Medical Council, in particular its existing complaint investigation and disciplinary inquiry mechanism, which had long been called for.</p>	
014158 - 014549	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's view that the Medical Council should endeavour to shorten the time it required for handling complaints to less than 24 months; and it should be provided for in the legislation the election mechanism for the patients groups and patient support groups as well as the Consumer Council to fill the four proposed additional lay member seats of the Medical Council. He considered that in so doing, there was no need to vest CE with the appointment power for these seats.</p>	
014550 - 015556	Chairman Ms Emily LAU Admin Mr Albert HO	<p>Ms Emily LAU's view that the Administration should squarely address the concerns raised by members and the stakeholders as far as possible, with a view to enabling the Bill to be dealt with before the prorogation of the Fifth LegCo.</p> <p>Mr Albert HO's call for the Administration to seek the view of the Medical Association on its proposal to convert the two</p>	

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		existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine, and discuss with the patient-related groups on the procedures for nomination of persons representing the interests of patients to fill the proposed additional lay member seats. Mr Albert HO and Ms Emily LAU requested the Administration to provide concrete proposals in this regard for consideration by the Bills Committee.	<b>Admin</b>
015557 - 015845	Chairman ALA6 Dr Fernando CHEUNG Admin Ms Emily LAU	The Legal adviser to the Bills Committee's remark that it would be for the President to decide whether the CSAs to be proposed by the Administration for converting the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Council of the Academy of Medicine fell within the scope of the Bill. Ms Emily LAU's request for the Administration to provide a written response in this regard.	<b>Admin</b>
<i>Agenda item II: Any other business</i>			
015846 - 015913	Chairman	Closing remarks	

Council Business Division 2  
Legislative Council Secretariat  
26 August 2016