

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2030/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/4/15

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

**Minutes of the fifth meeting**  
**held on Tuesday, 3 May 2016, at 2:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Vincent FANG Kang, SBS, JP (Chairman)  
Hon CHAN Han-pan, JP (Deputy 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  
Hon Cyd HO Sau-lan, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon Paul TSE Wai-chun, 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 Kenneth LEUNG  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Dennis KWOK  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, JP  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon WONG Yuk-man  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon CHUNG Kwok-pan

**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

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)1317/15-16(01), CB(2)1349/15-16(02), CB(2)1363/15-16(01), CB(2)1380/15-16(01) to (03), CB(2)1408/15-16(01), CB(2)1417/15-16(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 three additional lay members of the Medical Council of Hong Kong ("the Medical Council") who would be elected by the patient-related groups for appointment by the Chief Executive,
  - (i) in addition to the brief information as set out in Annex A to LC Paper No. CB(2)1380/15-16(03), provide further details of the factors to be taken into consideration by the Secretary for Food and Health in determining whether an organization or body would be eligible for electing the three persons to fill these seats;
  - (ii) provide the proposed guidelines on the detailed election arrangement being formulated by the Administration in consultation with the patient-related groups; and
  - (iii) provide a list of the patient-related groups being consulted on the Administration's proposal in this regard and a summary of their views and concerns on the proposal;
- (b) in respect of a member's view that the response given by the Administration in relation to the nine bottlenecks of the existing complaints investigation and disciplinary inquiry mechanism of the Medical Council as raised at the meeting on 25 April 2016 (LC Paper No. CB(2)1408/15-16(01)) was far from comprehensive, provide further details on the following:
  - (i) information on the breakdown, by the nine bottlenecks, of the average time required by the Medical Council for the handling of complaint cases at different stages; and
  - (ii) the respective administrative measures for shortening the

Action

time required of the Medical Council for handling complaints as referred to in item (i) above, with a breakdown by those that could only be implemented upon the enactment of the Bill and those that could still be implemented even if the Bill was not passed;

- (c) advise the progress of the Medical Council in formulating the guidelines in relation to the declaration by a member of the Preliminary Investigation Committee of an interest in a case and provide the guidelines for reference by members of the Bills Committee when available. It was stated in the judgment in *Law Yiu wai, Ray v. The Medical Council of Hong Kong and Others* (HCAL 46 of 2015) handed down by the Court of First Instance on 12 October 2015 that the Medical Council lacked appropriate guidelines in this regard; and
- (d) advise whether it would introduce mediation as one of the mechanisms for the Medical Council to handle complaints against registered medical practitioners, and provide information about the practices of overseas jurisdictions in this regard.

**II. Any other business**

- 3. The Chairman reminded members that the next meeting of the Bills Committee would be held on Monday, 9 May 2016, at 4:30 pm.
- 4. There being no other business, the meeting ended at 4:31 pm.

Council Business Division 2  
Legislative Council Secretariat  
7 September 2016

**Proceedings of the fifth meeting of  
the Bills Committee on Medical Registration (Amendment) Bill 2016  
held on Tuesday, 3 May 2016, at 2:30 pm  
in Conference Room 1 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
<i>Agenda item I: Meeting with the Administration</i>			
000157 - 000349	Chairman	Opening remarks	
000350 - 001337	Chairman Admin Ms Cyd HO Ms Emily LAU	Briefing by the Administration on its responses to issues arising from the discussion at the meeting on 25 April 2016 [LC Paper Nos. CB(2)1380/15-16(02) and (03) and CB(2)1408/15-16(01)].  Members noted the submission from Dr SHIH Tai-cho [LC Paper No. CB(2)1417/15-16(01)] which was tabled at the meeting.	
001338 - 001728	Chairman Ms Emily LAU Admin	Ms Emily LAU urged the Administration to step up its effort to forge a consensus among the medical profession and patient-related groups so as to take forward the Bill in order to improve the complaint investigation and disciplinary inquiry mechanism of the Medical Council of Hong Kong ("the Medical Council") which had been long called for by members of the public.	
001729 - 002403	Chairman Mr Albert HO Admin	Mr Albert HO's view that there was not much controversy about the legislative proposal of extending the maximum term of limited registration and renewal of such registration.  In response to Mr Albert HO's enquiry as to how the provision of honorarium as a token of appreciation to experts who assisted in the investigation work at the Preliminary Investigation Committee ("PIC") stage as proposed by the Administration in paragraph 6 of LC Paper No. CB(2)1408/15-16(01) could help shorten the time required for obtaining an independent expert opinion, the Administration's advice that the proposal was raised by the Medical Council. It was estimated that if the Bill was not passed, the average time for handling a complaint case could at best be shortened by two to four months through administrative measures. However, upon the passage of the Bill and after clearing the backlog of cases, it was estimated that the average time for handling a complaint case could be shortened from 58 months to about 30 months.  Mr Albert HO's view that it was of utmost importance that the election of the three additional lay persons representing the patients' interests for appointment by the Chief Executive ("CE") on the Medical Council, and the election of the two registered medical practitioners by the Hong Kong Academy of Medicine ("the Academy of Medicine") to sit on the Medical Council, were conducted without any interference from the Government. The latter was particularly important for ensuring that an equal ratio between appointed members and elected members in the Medical Council could be maintained.	

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002404 - 002941	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's concerns about the use of the additional earmark of \$4 million for strengthening the manpower of the Medical Council Secretariat; and the high remuneration for the current Legal Adviser to the Medical Council.</p> <p>The Administration's advice that it was for the Medical Council Secretariat to decide on its additional manpower requirements in order to help the Medical Council to expedite the handling of complaint cases; and its assurance that apart from the additional provision of \$4 million, more resources would be provided upon passage of the Bill, depending on the additional number of PICs to be established by the Medical Council and the increase in the frequency of disciplinary inquiry hearings. At present, the annual remuneration for the Legal Adviser to the Medical Council was about \$3.1 million. The passage of the Bill would enable the Medical Council to have more than one legal adviser and strengthen the legal support provided to the Medical Council.</p> <p>Dr KWOK Ka-ki's suggestion that to preserve professional autonomy, one of the two registered medical practitioner member seats to be 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 appointment by CE should be converted to four elected seats to be elected by registered medical practitioners with full registration and limited registration.</p> <p>The Administration's advice that the registered medical practitioners nominated by the two universities and HA had to represent HKU, CUHK and HA to provide views to the Medical Council from the perspective of local medical training institutions and the major public healthcare services provider respectively.</p>	
002942 - 003404	Chairman Mr Tommy CHEUNG	<p>Mr Tommy CHEUNG's expression of support for the legislative proposals of enabling the Medical Council to have more than one legal adviser and establish more than one PIC which were conducive to expediting the processing of complaint cases; and the Administration's latest 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 Academy of Medicine in accordance with its regulations or procedures for addressing the request of some members of the medical profession to maintain an equal ratio of appointed members and elected members in the Medical Council.</p>	
003405 - 003750	Chairman Dr LEUNG Ka-lau	<p>Dr LEUNG Ka-lau's view that there was a need to study the Bill in detail, as there were various issues which required careful study, in particular the proposed amendments to section 21B of the Medical Registration Ordinance (Cap. 161) ("the Ordinance") to amend the composition of the quorum of a meeting of the Medical Council held for an inquiry and increased the total number of assessors from 14 to 34. He</p>	

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		<p>considered it not necessary for the Bills Committee to follow the Administration's proposed timetable as set out in LC Paper No. CB(2)1380/15-16(02).</p> <p>On his remarks at the meeting on 25 April 2016 and the submission dated 3 May 2016 from the Academy of Medicine [LC Paper No. CB(2)1349/15-16(02)] concerning the existing mechanism adopted by the Academy of Medicine for nominating two registered medical practitioners for appointment by CE on the Medical Council, Dr LEUNG Ka-lau's advice that he needed more time to seek clarification from the 15 Colleges on how their Presidents were nominated and elected.</p>	
003751 - 004201	Dr LEUNG Ka-lau Chairman	Dr LEUNG Ka-lau drew the Chairman's attention that a quorum was not present, and the Chairman directed that members be summoned. The meeting resumed after a quorum was present.	
004202 - 004645	Chairman Mr Dennis KWOK Admin	Declaring that he was the barrister of the case, Mr Dennis KWOK advised that it was stated in the judgment in <i>Law Yiu wai, Ray v. The Medical Council of Hong Kong and Others</i> (HCAL 46 of 2015) handed down by the Court of First Instance that the Medical Council lacked appropriate guidelines in relation to the declaration by a member of PIC of an interest in a case. He requested the Administration to advise in writing about the progress of the Medical Council in formulating the relevant guidelines and provide the guidelines for reference by the Bills Committee when available.	<b>Admin</b>
004646 - 005301	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's views that it was necessary to enhance the transparency of the decision making process at the pre-PIC stage (i.e. under initial consideration by the PIC chairman and deputy chairman), in particular for those complaints which were considered groundless or frivolous and should not be proceeded further; and that the Medical Council should commit to establish at least two PICs upon the passage of the Bill in order to shorten the time it required for handling complaints. In the long run, an independent body should be established to handle medical complaints.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> <li>(a) the Medical Council would, where appropriate, inform the complainants in writing of the reasons why the complaint cases concerned were considered groundless or frivolous and should not be proceeded further;</li> <li>(b) it would be for the Medical Council to decide the number of PIC to be established upon the passage of the Bill. The Administration would provide necessary resources to the Medical Council Secretariat to provide adequate support in this regard; and</li> <li>(c) the Bill was a first step to improve the medical complaint investigation and disciplinary inquiry mechanism.</li> </ul>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
005302 - 010228	Chairman Mr Alan LEONG Admin ALA6	<p>While expressing support for the Bill to be dealt with before the prorogation of the Fifth Legislative Council ("LegCo"), Mr Alan LEONG was concerned that LegCo would be issuing a blank cheque if it passed the Bill without knowing the details of the factors to be taken into consideration by the Secretary for Food and Health ("SFH") in determining whether an organization would be eligible for electing the three persons for appointment by CE to fill the proposed three additional lay member seats of the Medical Council for representing patients' interests and the detailed election arrangement. He urged the Administration to consider providing the above details for the consideration by the Bills Committee as early as possible.</p> <p>The Legal Adviser to the Bills Committee's remark that according to the draft Committee stage amendments ("CSAs") to the Bill to be proposed by the Administration to amend the proposed amended section 3(2)(g) of, and add a new section 3(3AA) to, the Ordinance as set out in Annex B to LC Paper No. CB(2)1380/15-16(03), the notice specifying organizations representing the interests of patients by SFH and the guidelines to be issued by SFH on the election of the three lay member seats representing patients' interests in the Medical Council were not subsidiary legislation and would not be subject to amendment by LegCo. It was for members' consideration as to whether such arrangements were acceptable.</p>	<b>Admin</b>
010229 - 010640	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's call for members of the medical profession to support the Bill.	
010641 - 011153	Chairman Dr LEUNG Ka-lau Admin	Dr LEUNG Ka-lau drew the Chairman's attention that a quorum was not present, and the Chairman directed that members be summoned. The meeting resumed after a quorum was present.	
011154 - 011656	Chairman Dr LEUNG Ka-lau Admin	<p>Dr LEUNG Ka-lau's expression of doubt about the Administration's stance that without the passage of the Bill, the average time required by the Medical Council for processing a complaint case could at best be reduced from the current 58 months to 54 to 56 months.</p> <p>In response to Dr LEUNG Ka-lau's enquiry, the Administration's elaboration on the average time required to seek PIC chairman's directive at the pre-PIC stage as set out in Annex to LC Paper No. CB(2)1363/15-16(01).</p>	
011657 - 012107	Chairman Mr Tommy CHEUNG Admin	<p>Mr Tommy CHEUNG's call for the Medical Council to refine as early as practicable its guidelines in relation to the declaration by a member of PIC of an interest in a case.</p> <p>Mr Tommy CHEUNG's enquiry about the mechanism to be put in place by the Administration to ensure that only those organizations which truly represent the interests of patients would become electors for electing the three persons for filling the three additional lay member seats for representing patients' interests in the Medical Council.</p>	



Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>The Administration's response that according to the proposed factors to be considered by SFH on the eligibility of an elector in this regard as set out in Annex A to LC Paper No. CB(2)1380/15-16(03), the organizations concerned should be recognized by a credible patient-related platform, such as HA and the Community Rehabilitation Network.</p>	
012108 - 013126	<p>Chairman Dr KWOK Ka-ki Admin Mr Dennis KWOK</p>	<p>Dr KWOK Ka-ki's request for the Administration to provide for reference by the Bills Committee the patient-related groups being consulted by the Administration on the proposed election arrangement for the three additional lay member seats of the Medical Council for representing patients' interests.</p> <p>Holding the view that mediation was an effective means to resolve medical disputes, Dr KWOK Ka-ki requested the Administration to advise in writing whether it would introduce mediation as one of the mechanisms for the Medical Council to handle complaints against registered medical practitioners, and provide information about the practices of overseas jurisdictions in this regard.</p> <p>Mr Dennis KWOK's view that the use of mediation and the making of apology in medical incidents could help to resolve many complaints against registered medical practitioners and might in turn reduce the number of inquiries to be conducted by the Medical Council.</p>	<p><b>Admin</b></p> <p><b>Admin</b></p>
013127 - 013744	<p>Chairman Dr LEUNG Ka-lau Admin Deputy Chairman</p>	<p>Dr LEUNG Ka-lau's remark that the legislative proposal of enabling the Medical Council to establish more than one PIC could not significantly shorten the average time required for seeking PIC chairman's directive on whether a complaint should be referred to PIC for consideration.</p>	
013745 - 014025	<p>Deputy Chairman Chairman Admin</p>	<p>The Deputy Chairman's view that given that the draft CSAs to be proposed by the Administration and the Administration's commitment to provide additional manpower resources to the Medical Council Secretariat had already addressed various concerns raised by the Bills Committee at its previous meetings and there was a strong call from some patient groups for the early enactment of the Bill, the Bills Committee should work towards the target that the Bill could be dealt with before the prorogation of the Fifth LegCo.</p> <p>The Administration's advice that apart from the current allocation of \$4 million for handling complaints, an additional \$4 million would be earmarked for the Medical Council Secretariat in 2016-2017 in order to strengthen its manpower to facilitate the Medical Council to handle complaints.</p>	
014026 - 014509	<p>Chairman Dr KWOK Ka-ki Admin</p>	<p>Dr KWOK Ka-ki's reiteration of the view that mediation should be introduced as one of the mechanisms for the Medical Council to handle complaints against registered medical practitioners; and his request for the Administration to advise in writing the views and concerns of individual patient-related groups on the Administration's proposed arrangement for electing the three</p>	<p><b>Admin</b></p>

Time marker	Speaker	Subject(s)/Discussion	Action required
		persons for filling the three proposed additional lay member seats representing patients' interests in the Medical Council.	
014510 - 014940	Chairman Mr Tommy CHEUNG	<p>Mr Tommy CHEUNG's views that the legislative proposals could more or less shorten the time required by the Medical Council in handling complaints; and the promotion of the use of mediation as a means for resolving medical disputes should be regarded as a long-term goal that could be further discussed at other appropriate forums.</p> <p>Mr Tommy CHEUNG drew members' attention that Dr SHIH Tai-cho had indicated in his submission [LC Paper No. CB(2)1417/15-16(01)] that he was in support of the Administration's 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 Academy of Medicine.</p>	
014941 - 015847	Chairman Dr LEUNG Ka-lau Admin	<p>Dr LEUNG Ka-lau's query about the Administration's stance as set out in paragraphs 5 to 8 of LC Paper No. CB(2)1408/15-16(01) that the time required for obtaining further information and statutory declaration from the complainant, and seeking and receiving the medical records or reports from the clinic(s) or hospital(s) concerned could be shortened upon the passage of the Bill.</p> <p>Dr LEUNG Ka-lau's request for the Administration to provide in writing further information on the breakdown, by the nine bottlenecks as identified by some deputations at the meeting on 11 April 2016, of the average time required by the Medical Council for the handling of complaint cases at different stages; and the respective administrative measures for shortening the time so required.</p>	<b>Admin</b>
<i>Agenda item II: Any other business</i>			
015848 - 015912	Chairman	Date of next meeting	