

立法會
Legislative Council

LC Paper No. CB(2)2031/15-16

(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/15

Bills Committee on Medical Registration (Amendment) Bill 2016

**Minutes of the sixth meeting
held on Monday, 9 May 2016, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Vincent FANG Kang, SBS, JP (Chairman)
Hon CHAN Han-pan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
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 Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, 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
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
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 CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

- Members absent** : Hon Albert HO Chun-yan
Hon Emily LAU Wai-hing, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon NG Leung-sing, SBS, JP
Hon KWOK Wai-keung
- 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 attending** : 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

Action

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(02) to (03), CB(2)1408/15-16(01), CB(2)1434/15-16(01) to (04), CB(2)1468/15-16(01) and CB(3)422/15-16]

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

Motion

2. Dr LEUNG Ka-lau moved the following motion:

"本委員會促請政府，無論《2016年醫生註冊(修訂)條例草案》是否通過，皆會為醫務委員會秘書處提供足夠資源，以縮短投訴處理時間，達致附表所列的服務承諾。"

(Translation)

"That this Bills Committee urges the Government to, irrespective of whether the Medical Registration (Amendment) Bill 2016 was passed, provide adequate resources to the Medical Council Secretariat so as to shorten the handling time for complaint cases and meet the performance pledges specified in the attached schedule."

The attached schedule was set out in LC Paper No. CB(2)1468/15-16(01).

3. The Chairman ruled that the motion was directly related to the agenda item, and invited members to consider whether the motion should be dealt with. Eight members spoke on the motion.

4. In view of members' concerns, the Chairman invited Dr LEUNG Ka-lau to provide in writing supplementary information to explain the rationale for setting

Action

Admin

the various performance pledges in relation to the handling time for complaint cases. The Administration was also requested to provide a written response to the motion. Members agreed that the Bills Committee would decide whether the motion should be dealt with at the next meeting to be held on 16 May 2016.

Follow-up actions required of the Administration

Admin

5. 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 from the patient-related groups for appointment by the Chief Executive,
 - (i) provide information, such as notes of meetings, to show that the proposed arrangement for electing persons representing patients' interests and the factors to be considered by the Secretary for Food and Health for recognizing an organization as a patient-related group as set out in paragraphs 5 to 12 of LC Paper No. CB(2)1434/15-16(02) were generally accepted by the existing patient groups and patient support groups; and
 - (ii) advise whether the Administration or the Secretariat of the Medical Council would provide secretarial and administrative support to the three lay members representing patients' interests in performing their duties as members of the Medical Council;
- (b) in respect of the panel of assessors of the Medical Council for the purpose of conducting disciplinary inquiry, advise the rationale for requiring that the assessors who were registered medical practitioners had to be nominated by the Director of Health, the Hospital Authority, the University of Hong Kong, The Chinese University of Hong Kong and the Hong Kong Academy of Medicine respectively;
- (c) in respect of the revised Standing Order No. 6 of the Medical Council concerning conflict of interests of members as set out in paragraph 10 of LC Paper No. CB(2)1434/15-16(03), clarify under what circumstances a member of the Medical Council or a committee or a sub-committee should not participate in any deliberation or decision regarding the matter after making a declaration of interest and under what circumstances the member concerned could continue to participate in the deliberation or decision of the matter after making a declaration of interest as set out in sub-paragraphs (2) and (3) of the Standing Order respectively; and

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- (d) relay to the Medical Council a member's view that for those complaints which the chairman and deputy chairman of the Preliminary Investigation Committee ("PIC"), after having consulted a lay member of PIC, decided that the complaint was frivolous and should not be proceeded further, the Medical Council should advise, where appropriate, its recommendations on the way forward for consideration by the registered medical practitioner who was the subject of the complaint.

II. Any other business

6. There being no other business, the meeting ended at 6:38 pm.

Council Business Division 2
Legislative Council Secretariat
7 September 2016

**Proceedings of the sixth meeting of
the Bills Committee on Medical Registration (Amendment) Bill 2016
held on Monday, 9 May 2016, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000138 - 000449	Chairman	Opening remarks	
000450 - 001104	Chairman Admin	Briefing by the Administration on its responses to issues arising from the discussion at the meeting on 3 May 2016 [LC Paper Nos. CB(2)1434/15-16(02) to (04)].	
001105 - 001131	Chairman	Members noted the motion proposed by Dr LEUNG Ka-lau which was tabled at the meeting [LC Paper No. CB(2)1468/15-16(01)].	
001132 - 001844	Chairman Mr Dennis KWOK Admin	Mr Dennis KWOK's view that sub-paragraphs (2) and (3) of the revised Standing Order No. 6 of the Medical Council of Hong Kong ("the Medical Council") as set out in paragraph 10 of LC Paper No. CB(2)1434/15-16(03) was not clear enough to spell out the circumstances under which recusal from discussion would be required. At the request of Mr Dennis KWOK, the Administration undertook to clarify in writing under what circumstances a member of the Medical Council or a committee or a sub-committee should not participate in any deliberation or decision regarding the matter after making a declaration of interest and under what circumstances the member concerned could continue to participate in the deliberation or decision of the matter after making a declaration of interest as set out in the two sub-paragraphs (2) and (3) respectively.	Admin
001845 - 002446	Chairman Dr KWOK Ka-ki Admin	Dr KWOK Ka-ki's request for the Administration to provide in writing information, such as notes of meetings, to show that the proposed election arrangement and the factors to be considered by the Secretary for Food and Health ("SFH") for recognizing an organization as a patient-related group and an eligible elector for the elections held for filling the proposed three additional lay member seats representing patients' interests in the Medical Council as set out in paragraphs 5 to 12 of LC Paper No. CB(2)1434/15-16(02) were generally accepted by the existing patient groups and patient support groups.	Admin
002447 - 003052	Chairman Dr LEUNG Ka-lau Admin	Referring to the legislative proposal to increase the total number of assessors appointed by the Medical Council under the proposed amended section 21B(2) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance") from 14 (i.e. 10 assessors who were registered medical practitioners, two each nominated by the Director of Health, the Hospital Authority, the Hong Kong Academy of Medicine, the University of Hong Kong and The Chinese University of Hong Kong, and four lay	

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		<p>assessors nominated by SFH) to 34 (i.e. 20 assessors who were registered medical practitioners, four each were nominated by the above specified person or bodies, and 14 lay assessors nominated by SFH), Dr LEUNG Ka-lau expressed concern about the rationale for requiring that the assessors who were registered medical practitioners had to be nominated by above specified person or bodies. In his view, the registered medical practitioner assessors should instead be drawn randomly from all registered medical practitioners with full registration.</p> <p>The Administration's advice that the legislative proposal that the additional 10 assessors who were registered medical practitioners would be nominated by specified person or bodies and appointed by the Medical Council. This proposed arrangement was based on the existing arrangement which had been effective in drawing experienced registered medical practitioners with suitable knowledge and expertise to participate in the inquiry of the Medical Council.</p>	
003053 - 003724	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's enquiry about how the Administration would take forward the recommendation being looked into by the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development ("the Steering Committee") on the feasibility of providing an option for the Medical Council and the public to handle complaints against registered medical practitioners not involving professional misconduct through mediation as set out in paragraph 9 of LC Paper No. CB(2)1434/15-16(04).</p> <p>The Administration's advice that upon the publication of the Steering Committee's report in around mid 2016, the Food and Health Bureau and the Department of Justice ("DoJ") would discuss with the Medical Council on how to take forward the recommendation of the Steering Committee in relation to the introduction of a mediation process to handle complaints which did not involve professional misconduct in the complaint handling mechanism of the Medical Council. It should, however, be noted that the availability of such an option would not help reduce the number of caseloads at the pre-Preliminary Investigation Committee ("PIC") stage (i.e. under initial consideration by the PIC chairman and deputy chairman).</p>	
003725 - 004318	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's call for the Administration and the Medical Council Secretariat to provide adequate secretarial and administrative support to the proposed three additional lay members representing patients' interests in performing their duties as members of the Medical Council; and the Administration's undertaking to further discuss the issue with patient-related groups and provide a written response.</p>	Admin
004319 - 004855	Chairman Dr LEUNG Ka-lau Admin	<p>Dr LEUNG Ka-lau's view that the registered medical practitioner assessors should be drawn randomly from all registered medical practitioners with full registration, or should include registered medical practitioners nominated by the Hong Kong Medical Association; and his request for the</p>	Admin

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>Administration to explain in writing its rationale for following the existing arrangement to require all registered medical practitioner assessors be nominated by the five specified person or bodies.</p> <p>In response to Dr LEUNG Ka-lau's enquiry, the Administration's advice about the composition of the quorum of a meeting of the Medical Council held for a disciplinary inquiry as set out under existing section 21B(1) of the Ordinance; and its explanation that due to the fact that the Medical Council had genuine difficulty in forming quorum for conducting inquiry, it was proposed that more flexibility would be provided to the Medical Council to form the inquiry quorum under the Bill i.e. the five persons forming the quorum would become having at least one member of the Medical Council who was a registered medical practitioner, at least one lay member of the Medical Council or a lay assessor, and at least one assessor who was a registered medical practitioner. Majority of the inquiry panel would still be registered medical practitioners.</p>	
004856 - 005541	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's concern about the transparency of the decision making process during the pre-PIC stage.</p> <p>On Mr LEUNG Yiu-chung's view that for those complaint cases which were considered groundless or frivolous and should not be proceeded further, the Medical Council should advise, where appropriate, its recommendations on the way forward for consideration by the registered medical practitioner who was the subject of the complaint, the Administration agreed to relay the view to the Medical Council for consideration.</p>	Admin
005542 - 011942	Chairman Dr LEUNG Ka-lau Admin Mr Tommy CHEUNG Mr Dennis KWOK	<p>In response to Dr LEUNG Ka-lau's enquiry, the Administration's advice that in view of the recommendations of the Independent Commission Against Corruption, the Medical Council had since 2009 implemented a roster system for each inquiry hearing so as to help minimize the chance of an aborted inquiry due to insufficient quorum. Given that the Medical Council still had difficulty in forming a quorum for conducting inquiry, one of the Administration's legislative proposals was to refine the quorum requirement to provide the Medical Council with more flexibility in forming inquiry quorum in this regard.</p> <p>On Mr Tommy CHEUNG's enquiry about whether members of the Medical Council were free to join a disciplinary inquiry at any time which, in his view, would impair the fairness of the inquiry, the Administration's advice that the Medical Council had not come across such a situation since the implementation of the roster system which was agreed by the Medical Council.</p> <p>In response to Mr Tommy CHEUNG and Mr Dennis KWOK's enquiries, the Administration's advice that it was a statutory requirement that the Legal Adviser appointed by the Medical Council had to be present at every inquiry. Given that the Medical Council could only appoint one Legal Adviser under the Ordinance, the Medical Council could only conduct one</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>inquiry hearing at one time. The existing backlog of cases at the inquiry stage was about 80 cases. A case referred by PIC to date for disciplinary inquiry had to wait until 2019 to be heard. It was expected that the legislative proposal of enabling the Medical Council to have more than one legal adviser could help to shorten the waiting time for inquiry to less than 14 months after clearing backlog of cases.</p>	
011943 - 012514	<p>Chairman Dr KWOK Ka-ki Admin</p>	<p>Dr KWOK Ka-ki's enquiry about the readiness of DoJ and the Medical Council Secretariat for the introduction of a mediation process in the Medical Council's complaint handling mechanism.</p> <p>The Administration's advice that the mediation team of DoJ had been providing support to DoJ in implementing the long term policy to promote mediation within and develop the wider user of mediation by the Government for dispute resolution in Hong Kong. At present, the feasibility of providing an option for the Medical Council and the public to handle complaints against registered medical practitioners not involving professional misconduct through mediation was being looking into by the Steering Committee.</p>	
012515 - 013257	<p>Chairman Dr LEUNG Ka-lau Dr KWOK Ka-ki Miss Alice MAK Mr Tommy CHEUNG</p>	<p>The Chairman said that the motion proposed by Dr LEUNG Ka-lau was directly related to the agenda item. He suggested that members be invited to indicate by voting whether the Bills Committee should deal with the motion. The Chairman ordered for the voting bell to be rung for five minutes.</p>	
013258 - 013715	<p>Chairman Dr LEUNG Ka-lau</p>	<p>Dr LEUNG Ka-lau's explanation on his motion urging the Government to, irrespective of whether the Bill was passed, provide adequate resources to the Medical Council Secretariat so as to shorten the handling time for complaint cases and meet his proposed set of performance pledges as detailed in the table in LC Paper No. CB(2)1468/15-16(01).</p>	
013716 - 015221	<p>Chairman Miss Alice MAK Mrs Regina IP Mr Tommy CHEUNG Mr Steven HO Dr LEUNG Ka-lau Mr LEUNG Yiu-chung Dr KWOK Ka-ki Dr Fernando CHEUNG</p>	<p>Members indicated that they wish to speak on the motion before putting to vote the question of whether the motion should be dealt with. Dr LEUNG Ka-lau remarked that the details of the motion could be discussed after the Bills Committee decided that the motion should be dealt with.</p> <p>Miss Alice MAK's remarks that she had reservation to support the motion, as the Administration had already committed to provide additional manpower resources to the Medical Council Secretariat to help the Medical Council to expedite complaints handling and conduct of inquiries.</p> <p>Mrs Regina IP's view that to facilitate members to decide their stance on the motion, the Administration should be requested to advise the feasibility for the Medical Council to meet the set of performance pledges specified in the motion.</p> <p>Mr Tommy CHEUNG and Mr Steven HO's concern about the requisite resources to enable the Medical Council to meet the set of performance pledges specified in the motion.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>Mr LEUNG Yiu-chung's view that the motion should be dealt with. To facilitate members to decide their stance on the motion, Dr LEUNG Ka-lau and the Administration should respectively explain the rationale for the proposed set of performance pledges and whether the Medical Council could meet the performance pledges.</p> <p>Dr KWOK Ka-ki and Dr Fernando CHEUNG supported the motion, as the provision of additional resources to the Medical Council Secretariat would enable the Medical Council to shorten the handling time for complaint cases. The question of the additional resources required for meeting the performance pledges should not be an issue of concern. The Administration should also be requested to provide a response to the motion.</p>	
015222 - 015232	Chairman	The Chairman's decision to extend the meeting for 15 minutes beyond its appointed time.	
015233 - 020719	Chairman Dr LEUNG Ka-lau Mr LEUNG Yiu-chung Mrs Regina IP Admin Mr Tommy CHEUNG Mr YIU Si-wing Mr Steven HO Miss Alice MAK Dr Fernando CHEUNG	<p>The Administration's advice that it had already undertaken at previous meetings of the Bills Committee that it would earmark an additional \$4 million in the 2016-2017 financial year to strengthen the manpower of the Medical Council Secretariat, irrespective of whether the Bill was passed.</p> <p>Dr LEUNG Ka-lau and Mr LEUNG Yiu-chung considered it more appropriate for members to decide at the next meeting whether the motion should be dealt with in order to allow the Administration to provide a written response to the motion.</p> <p>Mr YIU Si-wing's remark that before going into the details of the motion, the Bills Committee should first decide whether the motion should be dealt with.</p> <p>Mr Tommy CHEUNG, Mr Steven HO and Miss Alice MAK's view that the Bills Committee was not an appropriate forum to discuss the details of the motion.</p> <p>The Chairman's conclusion that the Bills Committee would decide whether the motion should be dealt with at the next meeting on 16 May 2016. He invited Dr LEUNG Ka-lau to provide further information to explain his motion and the Administration to provide a written response to the motion.</p>	Admin
<i>Agenda item II: Any other business</i>			
020720 - 020740	Chairman	Closing remarks	