

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2032/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/4/15

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

**Minutes of the seventh meeting  
held on Monday, 16 May 2016, at 10:45 am  
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 Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
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  
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 WONG Yuk-man  
Hon NG Leung-sing, SBS, JP  
Hon Kenneth LEUNG  
Hon Dennis KWOK

**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

Mr Joseph SIU Wing-ho  
Acting Secretary  
Medical Council of Hong Kong  
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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Action

**I. Matters arising from the meeting on 9 May 2016**

[LC Paper Nos. CB(2)1363/15-16(01), CB(2)1468/15-16(01) to (02) and CB(2)1516/15-16(02)]

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

2. Members continued to discuss whether the Bills Committee should deal with the following motion moved by Dr LEUNG Ka-lau at the meeting held on 9 May 2016:

"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. A total of 14 members spoke on the motion. Given the diverse views expressed by members, a vote was taken on whether the Bills Committee should deal with the motion. The Chairman put to vote the question that the Bills Committee should deal with the motion. The results were: seven members voted in favour of and nine members voted against the question. The Chairman declared that as the above question was not agreed by a majority of members, the Bills Committee would not deal with the motion.

**II. Meeting with the Administration**

[File Ref.: FHCR1/F/3261/92, LC Paper Nos. LS44/15-16, CB(2)1118/15-16(03) to (04), CB(2)1131/15-16(01), CB(2)1349/15-16(02), CB(2)1380/15-16(03), CB(2)1408/15-16(01), CB(2)1434/15-16(02) to (04), CB(2)1468/15-16(03) to (05), CB(2)1495/15-16 (01) to (02) and CB(3)422/15-16]

Action

- Admin 4. The Bills Committee requested the Administration to:
- (a) in respect of the Legal Adviser to the Medical Council of Hong Kong ("the Medical Council") who was appointed by the Chief Executive,
    - (i) provide information on the hourly rate and the annual remuneration of the former and existing Legal Advisers to the Medical Council who served on a part-time basis; and
    - (ii) consider the suggestion of some members that the Legal Adviser to the Medical Council should be appointed on a full-time basis; and
  - (b) in respect of the quorum requirement for meetings of the Medical Council held for the purpose of an inquiry as stipulated under section 21B of the Medical Registration Ordinance (Cap. 161) and the administrative arrangement adopted by the Medical Council since 2009 for the formation of the quorum concerned as set out in paragraphs 2 to 5 of LC Paper No. CB(2)1468/15-16(04),
    - (i) advise the legal grounds for not allowing members of the Medical Council not on roster to attend such meetings; and
    - (ii) advise whether the roster system had made it difficult for the Medical Council to form the quorum for meetings of the Medical Council held for the purpose of an inquiry.

### **III. Any other business**

5. Members agreed that the next three meetings of the Bills Committee would be held on 23 May 2016 at 2:30 pm, 30 May 2016 at 4:30 pm and 7 June 2016 at 2:30 pm.

[*Post-meeting note:* On the instruction of the Chairman, the tenth meeting originally scheduled for 7 June 2016 has been rescheduled for 6 June 2016 at 8:30 am.]

6. There being no other business, the meeting ended at 12:47 pm.

**Proceedings of the seventh meeting of  
the Bills Committee on Medical Registration (Amendment) Bill 2016  
held on Monday, 16 May 2016, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Matters arising from the meeting on 9 May 2016</i>			
000702 - 000814	Chairman	Opening remarks	
000815 - 001055	Chairman Admin	Briefing by Administration on its response to the motion proposed by Dr LEUNG Ka-lau at the meeting on 9 May 2016 [LC Paper No. CB(2)1468/15-16(02)], and its responses to the issues raised at the meeting on 9 May 2016 [LC Paper Nos. CB(2)1468/15-16(04) and CB(2)1495/15-16(01) to (02)].	
001056 - 001534	Chairman Dr LEUNG Ka-lau	Briefing by Dr LEUNG Ka-lau on the supplementary information for his motion which was tabled at the meeting [LC Paper No. CB(2)1516/15-16(02)].	
001535 - 010329	Chairman Mr Albert HO Miss Alice MAK Mr Tommy CHEUNG Mr YIU Si-wing Dr Fernando CHEUNG Deputy Chairman Prof Joseph LEE Mr LEUNG Yiu-chung Mr KWOK Wai-keung Dr LEUNG Ka-lau Dr KWOK Ka-ki Mrs Regina IP Mr Alan LEONG Mr Christopher CHUNG Mr James TO ALA6	<p>The Chairman invited members to consider whether the Bills Committee should deal with the motion proposed by Dr LEUNG Ka-lau as set out in LC Paper No. CB(2)1468/15-16(01).</p> <p>Mr Albert HO, Dr Fernando CHEUNG, Dr KWOK Ka-ki and Mr James TO's view that the motion should be dealt with, as the principle of requesting the Administration to provide additional resources to enable the Medical Council of Hong Kong ("the Medical Council") to shorten the handling time for complaint cases should be supported.</p> <p>Miss Alice MAK, Mr KWOK Wai-keung and Mr Christopher CHUNG's view that the Bills Committee was not an appropriate forum to discuss the details of the motion. Miss Alice MAK indicated that she would follow up the issue at the Panel on Health Services.</p> <p>Mr Tommy CHEUNG considered that the motion should not be dealt with, as the Administration had explained that it would not be possible for the Medical Council to meet the performance pledges specified under the motion even with the provision of additional resources. He also indicated his intention to move amendments to the motion if it was agreed that the motion should be dealt with.</p> <p>The Deputy Chairman and Mr YIU Si-wing's view that the Bills Committee did not have enough time to discuss the details of the motion if it was the wish of many members and patient-related groups to have the Bill be dealt with before the prorogation of the Fifth Legislative Council ("LegCo").</p>	

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		<p>Prof Joseph LEE and Mr LEUNG Yiu-chung's view that the motion should be dealt with; and their remark that the details of the motion could be further discussed if it was agreed that the Bills Committee should deal with the motion.</p> <p>Mrs Regina IP indicated that it was difficult not to support the principle of the motion. However, each performance pledge might warrant in-depth discussion. In her view, the focus of the work of the Bills Committee should be to examine the Bill.</p> <p>Mr Alan LEONG's remarks that he did not see why if the Bills Committee decided to deal with the motion, it would require a lot of time to discuss the details of the motion. In addition, the motion, if passed, would not have any legislative effect. He, however, was of the view that the motion should not be dealt with at this stage unless the performance pledges specified by Dr LEUNG Ka-lau under the motion were the prerequisite for the passage of the Bill.</p> <p>Dr LEUNG Ka-lau stressed that his purpose of proposing the motion was to consolidate his various requests to urge the Medical Council Secretariat to shorten the time it required in handling complaint cases at different stages through the introduction of administrative measures and with additional resources provided by the Government.</p>	
010330 - 010619	Chairman	The Bills Committee decided by voting not to deal with the motion proposed by Dr LEUNG Ka-lau.	
<i>Agenda item II: Meeting with the Administration</i>			
010620 - 011250	Chairman Admin Dr LEUNG Ka-lau Mr Tommy CHEUNG	<p>Dr LEUNG Ka-lau's view that there would not be sufficient number of registered medical practitioner members to be elected as chairman and deputy chairman of the additional Preliminary Investigation Committees ("PICs") to be established by the Medical Council after the passage of the Bill. The Medical Council had adhered to the principle that overlapping membership among the different proceedings of the Medical Council and its committees relating to the same underlying facts was prohibited. There were currently only eight registered medical practitioner members who were not serving on any of the five statutory committees under the Medical Council. They were the Chairman of the Medical Council and a member who actively take part in inquiries, two senior directorate officers of the Department of Health, three senior executives of the Hospital Authority ("HA") and a member in private practice. These members would very unlikely take up the role of PIC chairman and deputy chairman for various reasons.</p> <p>The Administration's response that it was of the view that the said eight registered medical practitioner members of the Medical Council could serve on the additional PIC(s) to be established upon the passage of the Bill, and there was no prohibition under the Medical Registration Ordinance (Cap. 161) ("the Ordinance") for the 16 registered medical</p>	

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		<p>practitioner members serving on other statutory committees to serve concurrently on PIC. For instance, the five members serving on the Ethics Committee could serve on the additional PIC(s) to be established.</p>	
011251 - 011541	Chairman Dr KWOK Ka-ki	<p>Referring to the legislative proposal to increase the number of assessors who were medical practitioners from 10 to 20, Dr KWOK Ka-ki's enquiry about the rationale that these assessors could only be nominated by the Director of Health, HA, the Hong Kong Academy of Medicine, the University of Hong Kong and The Chinese University of Hong Kong but not the Hong Kong Medical Association ("the Medical Association").</p> <p>The Administration's advice that since the Medical Association already had seven representatives on the Medical Council and these seven members could participate in disciplinary inquiries, there was no need for the Medical Association to further nominate representatives to the panel of assessors.</p>	
011542 - 011918	Chairman Dr LEUNG Ka-lau Admin	<p>Dr LEUNG Ka-lau's reiteration of his view that it was not feasible for the Medical Council to establish more than one PIC if there was no increase in the number of registered medical practitioner members in the Medical Council; and the Administration's response that the Chairman of the Medical Council had not raised such a concern at the meeting of the Bills Committee held on 11 April 2016 to receive views from deputations on the Bill.</p>	
011919 - 012157	Chairman Mr Tommy CHEUNG	<p>Mr Tommy CHEUNG's views that the issue of providing additional resources to the Medical Council Secretariat so as to shorten the Medical Council's complaint handling time could be followed up after the passage of the Bill, and there should be registered medical practitioner members who could serve as chairman and deputy chairman of the additional PIC(s) to be established upon the passage of the Bill.</p>	
012158 - 012439	Chairman Miss Alice MAK Admin	<p>In response to Miss Alice MAK's enquiry as to whether a member of the Medical Council had to be a registered medical practitioner in order to take up the office of PIC chairman, the Administration's advice that while not a statutory requirement, it was a normal practice for the Medical Council to elect a registered medical practitioner member to be the PIC chairman.</p>	
012440 - 012810	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's view that the Administration should make an undertaking regarding the average shortened time for the handling of complaint cases by the Medical Council upon the passage of the Bill.</p> <p>The Administration's advice that it would provide adequate resources to the Medical Council Secretariat to facilitate the Medical Council to speed up its complaint handling process. It would be for the Medical Council to work out its target in this regard after the passage of the Bill.</p>	

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012811 - 013117	Chairman Dr KWOK Ka-ki Admin	Dr KWOK Ka-ki's reiteration of his view that the Medical Association should be eligible for nominating assessors who were registered medical practitioners; and his view that the Chairman of the Medical Council should be invited to attend the next meeting of the Bills Committee so that members could gain a better understanding on the governance and resource requirements of the Medical Council.	
013118 - 013847	Chairman Dr LEUNG Ka-lau	<p>Dr LEUNG Ka-lau's elaboration of the tainted-member rule under which overlapping membership among the different proceedings of the Medical Council and its committees relating to the same underlying facts was prohibited. According to the submission from the Medical Council [LC Paper No. CB(2)1230/15-16(02)], some of its members considered it necessary to increase the number of registered medical practitioner members in the Medical Council by four so as to cater for the additional workload arising after the establishment of additional PIC(s) and to avoid the situation of insufficient untainted members of the Medical Council to form a quorum in later stages of the proceedings against the defendant registered medical practitioners. He indicated that he would consider moving Committee stage amendments ("CSAs") to the Bill in this regard.</p> <p>Dr LEUNG Ka-lau stressed that it was an established practice for the Medical Council to elect its registered medical practitioner members to be the chairman of PIC as decision making on complaint cases required knowledge of medical terminologies and procedures.</p>	
013848 - 014152	Chairman Dr KWOK Ka-ki Admin	Dr KWOK Ka-ki's expression of disagreement with the Administration's view that there was no need for the Medical Association to have representatives on the panel of assessors as it already had seven representatives on the Medical Council. He indicated that he would consider moving CSAs in this regard.	
014153 - 014628	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's view that measures such as providing additional resources to the Department of Justice to strengthen its legal support to the Medical Council; engaging a full-time rather than a part-time Legal Adviser by the Medical Council; and shortening the time required by the Medical Council Secretariat for obtaining statutory declarations of the complainants and/or consents of the patients for the release of medical records or reports, and seeking and receiving the medical records or reports from the clinics or hospitals through administrative measures could help to improve the efficiency of the Medical Council in handling complaints.</p> <p>The Administration's advice that:</p> <p>(a) given that the Medical Council could only appoint one Legal Adviser under the Ordinance, the Medical Council could only conduct one inquiry hearing at one time. One of its legislative proposals was to enable the Medical</p>	



Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>Council to have more than one legal adviser in order to shorten the waiting time for inquiry; and</p> <p>(b) the time required to obtain statutory declaration of the complainant and/or consent of the patient for the release of medical records or reports, and seek and receive the medical records or reports from the clinic(s) or hospital(s) would depend on the complexity of the case and the time required by the complainant and the clinic(s) or hospital(s) concerned to provide the requisite information.</p>	
014629 - 014950	Chairman Dr KWOK Ka-ki Admin	Dr KWOK Ka-ki's request for the Administration to provide in writing information on the hourly rate and the annual remuneration of the former and existing Legal Advisers to the Medical Council who served on a part-time basis, and its response to some members' suggestion that the Legal Adviser to the Medical Council should be appointed on a full-time basis.	<b>Admin</b>
014951 - 015211	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's concern that Dr LEUNG Ka-lau's proposal to increase both registered medical practitioner members and lay members of the Medical Council by four would fail to achieve the 1:3 ratio of lay members to registered medical practitioner members as proposed under the Bill.	
015212 - 015527	Chairman Dr Fernando CHEUNG Admin	<p>While expressing support to the policy direction of reforming the Medical Council to improve its efficiency in handling complaints, Dr Fernando CHEUNG criticized the Administration for not promptly introducing legislative proposals to address the problem but only waited until Mr Tommy CHEUNG proposed to introduce a Member's Bill in this regard in late 2015.</p> <p>The Administration's advice that the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development was conducting, among others, a review of the regulatory frameworks of the medical profession in both local and overseas contexts. While the review had yet been completed, the Administration introduced the Bill into LegCo in early 2016 in order to improve the complaint investigation and disciplinary inquiry mechanism of the Medical Council. The coverage of the legislative proposal was broader than that of Hon Tommy CHEUNG because of the need to address urgent and critical bottlenecks other than an increase in the number of lay members.</p>	
015528 - 015758	Chairman Dr LEUNG Ka-lau	Referring to section 21B of the Ordinance and paragraphs 2 to 5 of LC Paper No. CB(2)1468/15-16(04), Dr LEUNG Ka-lau's request for the Administration to advise in writing (a) the legal grounds for not allowing members of the Medical Council not on roster to attend meetings of the Medical Council held for the purpose of an inquiry; and (b) whether the roster system had made it difficult for the Medical Council to form the quorum for meetings of the Medical Council held for the purpose of an inquiry.	<b>Admin</b>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
<i>Agenda item III: Any other business</i>			
015759 - 020352	Chairman Ms Emily LAU Miss Alice MAK	Arrangements for the next three meetings	

Council Business Division 2  
Legislative Council Secretariat  
7 September 2016