

立法會
Legislative Council

LC Paper No. CB(2)2064/15-16
(These minutes have been
seen by the Administration)

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Bills Committee on Medical Registration (Amendment) Bill 2016

Minutes of the ninth meeting
held on Monday, 30 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 Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
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
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, JP
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan
- Members absent** : Hon Albert HO Chun-yan
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN

Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon WONG Yuk-man
Hon Charles Peter MOK, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon IP Kin-yuen
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers : Mr Richard YUEN Ming-fai, JP
attending 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 : Ms Maisie LAM
attendance Chief Council Secretary (2) 5

Staff in : Ms Wendy KAN
attendance 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. CB(2)1118/15-16(03) to (04), CB(2)1131/15-16(01), CB(2)1349/15-16(02), CB(2)1541/15-16(02), CB(2)1547/15-16(01) to (02), CB(2)1569/15-16(01), CB(2)1581/15-16(01) to (02), CB(2)1590/15-16(01) to (04), CB(2)1604/15-16(01) and CB(3)422/15-16]

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

Committee stage amendments to the Bill

2. Members considered Dr KWOK Ka-ki's draft Committee stage amendment ("CSA") to the proposed amended section 3(2) of the Medical Registration Ordinance (Cap. 161), which sought to reduce the number of registered medical practitioners nominated respectively by the University of Hong Kong, The Chinese University of Hong Kong, the Hospital Authority and the Hong Kong Academy of Medicine for appointment by the Chief Executive ("CE") from two to one each and increase the number of members elected by registered medical practitioners with full registration and limited registration correspondingly by four (i.e. from seven to eleven) [LC Paper No. CB(2)1590/15-16(03)].

3. Members noted the Administration's response to the draft CSA to the Bill to be proposed by Dr KWOK Ka-ki [LC Paper No. CB(2)1590/15-16(04)].

4. Due to time constraint, members agreed to defer the consideration of the draft CSAs to be proposed by Dr LEUNG Ka-lau to the next meeting.

Follow-up actions required of the Administration

Admin 5. 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 CE, the Administration was requested to:

Action

- (a) consider a member's suggestion that the discretionary power to determine whether an organization represented the interests of patients and could be an eligible elector should be vested in the Permanent Secretary for Food and Health (Health), instead of the Secretary for Food and Health who was a politically appointed official; and
- (b) write directly to all patient groups and patient support groups recognized by a credible patient-related platform (e.g. the Hospital Authority, the Community Rehabilitation Network and the Social Welfare Department's Financial Support Scheme for Self-help Organizations of Persons with Disabilities/Chronic Illnesses) to inform them of, and seek their views on, the proposed election arrangement for these three seats as set out in LC Paper No. CB(2)1581/15-16(02), and revert to the Bills Committee on the views received, if any.

II. Any other business

6. The Chairman reminded members that the next meeting of the Bills Committee would be held on Tuesday, 7 June 2016, at 2:30 pm.

(Post-meeting note: On the instruction of the Chairman, the tenth meeting of the Bills Committee originally scheduled for 7 June 2016 has been subsequently re-scheduled to 6 June 2016 at 8:30 am.)

7. There being no other business, the meeting ended at 6:43 pm.

Council Business Division 2
Legislative Council Secretariat
22 September 2016

**Proceedings of the ninth meeting of
the Bills Committee on Medical Registration (Amendment) Bill 2016
held on Monday, 30 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>			
000928 - 001107	Chairman	Opening remarks	
001108 - 001732	Chairman Admin	<p>Briefing by the Administration on its responses to issues arising from the discussion at the meeting on 23 May 2016 [LC Paper Nos. CB(2)1581/15-16(02) and CB(2)1590/15-16(01) and 02].</p> <p>The Administration's briefing on its draft Committee stage amendments ("CSAs") to clauses 8 and 10 of the Bill as set out in LC Paper No. CB(2)1569/15-16(01); and its advice that at the suggestion of the Legal Adviser to the Bills Committee, the Administration would remove its CSA to clause 12 of the Bill.</p>	
001733 - 003356	Chairman Ms Emily LAU Admin Mr LEUNG Yiu-chung Dr Fernando CHEUNG Mr Tommy CHEUNG	<p>In response to Ms Emily LAU and Mr LEUNG Yiu-chung's enquiries, the Administration elaborated on the proposed arrangements for electing three persons representing patients' interests for appointment by the Chief Executive ("CE") to the Medical Council of Hong Kong ("the Medical Council") ("the election") and the suggested timetable for the first election as set out in paragraphs 6 to 17 of LC Paper No. CB(2)1581/15-16(02). It was proposed that each organization being recognized as representing patients' interests, irrespective of its membership size, might nominate one candidate and might cast a maximum of three votes by secret ballot at the poll.</p> <p>Ms Emily LAU and Mr Tommy CHEUNG's concerns about how vote-rigging could be prevented; and the Administration's response that the four requirements on eligibility of electors as detailed in paragraph 10 of LC Paper No. CB(2)1581/15-16(02) could ensure that the organizations so recognized were truly representing the interests of patients. In particular, an organization would be required to be in active operation for a specified period, and had been carrying out activities to promote and/or represent patients' interests and/or advocating medical policies in order to become an eligible elector for the election. The specified period of active operation would be determined after consulting the patient-related groups.</p> <p>In response to Dr Fernando CHEUNG's enquiry as to whether it was the Secretary of the Medical Council, who was proposed to be responsible for conducting the election, to decide whether an organization was an eligible elector, the Administration's advice that the guidelines for specifying whether an organization was representing the interests of patients and be eligible for being an elector for the election would be issued by the Secretary for Food and Health ("SFH") in consultation with the organizations</p>	

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		<p>concerned. The electoral office might seek the advice of SFH during the vetting process. The Food and Health Bureau would provide support to, and make recommendations in this regard for consideration by, SFH.</p>	
003357 - 005634	<p>Chairman Dr KWOK Ka-ki ALA6 Admin Ms Emily LAU Mr LEUNG Yiu-chung Dr Fernando CHEUNG</p>	<p>Ms Emily LAU's view that the electoral office should ensure that the election would be conducted in a fair and open manner.</p> <p>Dr KWOK Ka-ki and Dr Fernando CHEUNG's strong view that the legislation should provide for the criteria which were to be taken into account in determining whether an organization represented the interests of patients and was eligible to elect the three persons representing patients' interests. Dr KWOK Ka-ki was particularly concerned about the arrangement that such an organization had to be recognized by the Hospital Authority ("HA"), the Community Rehabilitation Network ("CRN"), or the Financial Support Scheme for Self-help Organizations of Persons with Disabilities/Chronic Illnesses of the Social Welfare Department ("SWD").</p> <p>The Legal Adviser to the Bills Committee's view that it was advisable, from the legal perspective, for the said criteria to be provided for in the legislation. Further, the criteria should be subject to amendment by the Legislative Council.</p> <p>The Administration's advice that the arrangement of not stating the said criteria in the legislation would allow more flexibility and adaptability to refine the arrangement in response to new developments (e.g. the presence of new patient groups arising from a new disease or the emergence of a new credible patient-related platform joined or formed by patient groups). The current drafting of the proposed election arrangements was that the credible platforms should include but not be limited to HA, CRN and SWD's Financial Support Scheme for Self-help Organizations of Persons with Disabilities/Chronic Illnesses.</p> <p>Ms Emily LAU and Mr LEUNG Yiu-chung's view that the Administration should put in place a mechanism to consider appeals against the decision of SFH on eligibility for being an elector; and the Administration's advice that SFH would take into account the views of the existing organizations which were recognized as representing patients' interests in determining whether a new organization should become an eligible elector. Mr LEUNG Yiu-chung considered that in so doing, SFH should ensure that a proper balance between supporting and objecting views had been struck.</p>	
005635 - 010058	<p>Chairman Dr LEUNG Ka-lau</p>	<p>Dr LEUNG Ka-lau's view that the four requirements on eligibility of electors were not clear enough. He was also concerned about possible vote-rigging in the election as overlapping membership among those organizations to be recognized as representing patients' interests would not be uncommon. He suggested that an alternative was to allow all patients to register as electors.</p>	

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010059 - 010616	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's reiteration of his view that the legislation should provide for the criteria which were to be taken into account in determining whether an organization represented the interests of patients and was eligible to be an elector for the election; and his suggestion that the Administration should consult the Independent Commission Against Corruption ("ICAC") before finalizing the election arrangement.</p> <p>The Administration's advice that the view of the patient-related groups it had consulted was that the legislation should not prescribe a rigid definition of what constituted an organization representing patients' interests. The Administration would, where appropriate, consult ICAC on the election arrangement.</p>	
010617 - 011031	Chairman Dr Fernando CHEUNG	<p>Dr Fernando CHEUNG expressed grave concern that to his understanding, not all patient-related groups were aware of the Administration's proposed arrangement for the election. It was also unknown whether the patient-related groups being consulted by the Administration had sought the views of their members (or their member organizations in the case of the umbrella organizations) on the proposed election arrangement. He considered that SFH should not be vested with the power to decide whether an organization represented the interests of patients and could be an eligible elector.</p>	
011032 - 011552	Chairman Dr LEUNG Ka-lau Admin	<p>In response to Dr LEUNG Ka-lau's concern and suggestion as expressed at the earlier part of the meeting, the Administration's advice that its policy intention was for the patient-related groups, but not individual patients, to elect three persons representing patients' interests for appointment by CE to the Medical Council. No adverse views had been received on the above arrangement.</p>	
011553 - 014016	Chairman Dr KWOK Ka-ki Admin Mr NG Leung-sing Ms Emily LAU Dr Fernando CHEUNG	<p>In response to Dr KWOK Ka-ki and Dr Fernando CHEUNG, the Administration reiterated that it was the major patient groups' view that the legislation should not prescribe a rigid definition of what constituted an organization representing patients' interests. It cited the requirements that the organization should be a registered society or company and be in active operation for a specified period to explain how the current proposed arrangement could allow sufficient flexibility to include as many relevant organizations as possible.</p> <p>Mr NG Leung-sing's expression of support to the arrangement for electing the three persons representing patients' interests as proposed by the Administration; and Dr Fernando CHEUNG's view that the four requirements on eligibility of electors were not clear enough.</p> <p>Dr KWOK Ka-ki's view that it was not appropriate for SFH to decide whether an organization represented the interests of patients and could be an eligible elector; and Ms Emily LAU's suggestion that to dispel any suspicion of political consideration, it would be better if such decisions were made by the Permanent Secretary for Food and Health (Health) instead of SFH who was a politically appointed official. The Administration undertook to</p>	Admin

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>consider the suggestion which was supported by Dr Fernando CHEUNG.</p> <p>Noting the tight timetable for conducting the first election and the fact that some patient-related groups were unaware of the proposed election arrangement, Dr Fernando CHEUNG's request for the Administration to write directly to all patient groups and patient support groups recognized by a credible patient-related platform to inform them of, and seek their views on, the proposed election arrangement, and revert to the Bills Committee on the views received, if any.</p>	Admin
014017 - 014605	Chairman Dr LEUNG Ka-lau Admin ALA6	<p>Dr LEUNG Ka-lau's view that the singular expression of "Preliminary Investigation Committee" ("PIC") in the Medical Registration Ordinance (Cap. 161) ("the Ordinance") should not be construed in such a way that the Medical Council could not establish more than one PIC, as section 7(2) of the Interpretation and General Clauses Ordinance (Cap. 1) ("IGCO") provided that words and expressions in the singular include the plural and words and expressions in the plural include the singular.</p> <p>The Administration advised that while section 7(2) of IGCO provided a general principle that words denoting the singular included the plural, the use of the word "the" before the expression "Preliminary Investigation Committee" in section 20BA(2) of the Ordinance meant that the Medical Council could only establish one PIC. The Legal Adviser to the Bills Committee concurred with the Administration's view that the Medical Council could only establish one PIC under the current regime.</p>	
014606 - 015042	Chairman Dr KWOK Ka-ki Admin	<p>Expressing concern about the significant increase in the annual remuneration for the Legal Adviser to the Medical Council, who was engaged on a part-time basis, over the years as set out in LC Paper No. CB(2)1590/15-16(02), Dr KWOK Ka-ki enquired about the mechanism put in place to monitor the service of the Legal Adviser to the Medical Council. In his view, the Legal Adviser should be engaged on a full-time basis.</p> <p>The Administration's advice that the Legal Adviser to the Medical Council would submit in writing information on the services provided and the working dates and hours involved for verification by the Medical Council Secretariat on a monthly basis. The increase in the number of complaints received by the Medical Council in recent years had resulted in an increase in the number of matters requiring legal advice and hence, an increase in the remuneration of the Legal Adviser to the Medical Council who was remunerated on hourly rate.</p>	
015043 - 015908	Chairman Mr Tommy CHEUNG Dr LEUNG Ka-lau Dr Fernando CHEUNG Dr KWOK Ka-ki	Views of members on whether the Bills Committee should proceed to discuss the draft CSAs to the Bill to be proposed by individual members.	

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015909 - 021236	Dr KWOK Ka-ki Chairman Admin Dr LEUNG Ka-lau	<p>The Chairman's decision to extend the meeting for 15 minutes beyond its appointed time to allow more time for discussion.</p> <p>Briefing by Dr KWOK Ka-ki on his draft CSA which sought to reduce the number of registered medical practitioner members nominated respectively by the University of Hong Kong ("HKU"), The Chinese University of Hong Kong ("CUHK"), HA and the Hong Kong Academy of Medicine ("the Academy of Medicine") for appointment by CE from two to one each, and increase the number of members elected by registered medical practitioners with full registration and limited registration by four [LC Paper No. CB(2)1590/15-16(03)].</p> <p>Dr LEUNG Ka-lau's view that representatives from HKU and CUHK, and HA on the Medical Council might respectively have conflict of interest with their duties in relation to registration of medical practitioners and complaints against registered medical practitioners serving in public hospitals.</p> <p>The Administration's elaboration of its response to the draft CSA to be proposed by Dr KWOK Ka-ki as set out in LC Paper No. CB(2)1590/15-16(04). It stressed that at present, 14 out of the 24 registered medical practitioner members of the Medical Council were already directly or indirectly elected by registered medical practitioner members with full registration and limited registration. Representatives from HKU, CUHK and the Academy of Medicine on the Medical Council had the role of providing views from the training perspective, whereas those from HA would provide views from the perspective of employment and training needs.</p>	
<i>Agenda item II: Any other business</i>			
021237 - 021413	Chairman Ms Emily LAU	Closing remarks	