

立法會
Legislative Council

LC Paper No. CB(2)2065/15-16
(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/15

Bills Committee on Medical Registration (Amendment) Bill 2016

Minutes of the tenth meeting
held on Monday, 6 June 2016, at 8:30 am
in Conference Room 2 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 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 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 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 CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

- Members absent** : Hon Emily LAU Wai-hing, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon WONG Yuk-man
Hon Frankie YICK Chi-ming, 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(03), CB(2)1349/15-16(02), CB(2)1581/15-16(02), CB(2)1590/15-16(03) to (04), CB(2)1604/15-16 (01), CB(2)1629/15-16(01) to (02), CB(2)1651/15-16(01), CB(2)1656/15-16(01) to (02), CB(2)1659/15-16 (01) to (02) 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 the following draft Committee stage amendments ("CSAs") to the Bill to be proposed by Dr LEUNG Ka-lau and Dr KWOK Ka-ki respectively:

- (a) four sets of draft CSAs to be proposed by Dr LEUNG Ka-lau [LC Paper Nos. CB(2)1604/15-16(01) and CB(2)1656/15-16(02)] which respectively sought to:
 - (i) increase the number of lay members appointed by the Chief Executive ("CE") to the Medical Council of Hong Kong ("the Medical Council") and the number of members elected by registered medical practitioners with full registration and limited registration both by four (i.e. from four to eight for the former, with three to be elected by the qualified electors to represent the interests of patients and one to be nominated by the Consumer Council, and from seven to 11 for the latter);
 - (ii) increase the number of lay members appointed by CE to the Medical Council and the number of members elected by registered medical practitioners with full registration and limited registration both by six (i.e. from four to 10 for the former, with five to be elected by the qualified electors to

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represent the interests of patients and one to be nominated by the Consumer Council, and from seven to 13 for the latter);

- (iii) amend the proposed refined quorum for conducting inquiries under the Bill by removing the requirement of having at least one registered medical practitioner assessor (i.e. the proposed quorum would become a panel of five persons, with at least (i) one member of the Medical Council who was a registered medical practitioner and (ii) one lay member of the Medical Council or lay assessor), subject to the majority being registered medical practitioners; and
- (iv) increase the total number of assessors by adding ten registered medical practitioner assessors to be nominated by the Medical Association from among its members; and

- (b) the draft CSA to be proposed by Dr KWOK Ka-ki which sought to amend the proposed amended section 21B(2) of the Ordinance to increase the total number of assessors by increasing the number of lay assessors nominated by the Secretary for Food and Health from four to 14, increasing the number of registered medical practitioner assessors 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 respectively from two to four each, and adding eight registered medical practitioner assessors to be nominated by the Medical Association from among its members [LC Paper No. CB(2)1656/15-16(01)].

3. Members noted the Administration's responses to the above draft CSAs [LC Paper Nos. CB(2)1629/15-16(02) and CB(2)1659/15-16(01) and (02)].

4. Members also noted Dr LEUNG Ka-lau's intention to propose a CSA to delete the proposed amended section 21B(1) of the Ordinance concerning the composition of the quorum of a meeting of the Medical Council held for an inquiry.

Follow-up actions required of the Administration

Admin 5. The Administration was requested to provide a written response to address some members' concern over the rationale for:

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- (a) the proposed new section 21(7) of the Ordinance which sought to clarify that in relation to an inquiry, a reference to the Medical Council in section 21 (except the references specified in clause 10 of the Bill) was a reference to the members and assessors mentioned in the proposed amended section 21B(1) who participated in the inquiry; and
- (b) the proposed amended section 21B(1) of the Ordinance which sought to amend the composition of the quorum of a meeting of the Medical Council held for an inquiry.

6. Members expressed divergent views as to whether the Bills Committee should hold a further meeting to discuss the Administration's written response referred to paragraph 5 above. The Chairman said that he would consult members on the way forward upon receipt of the Administration's written response.

[Post-meeting note: The Administration's response, together with the full set of draft CSAs proposed by the Administration, were circulated vide LC Paper No. CB(2)1703/15-16 on 10 June 2016 for members' consideration. Members were consulted vide the same circular on whether they would raise any objection to the Administration's plan to resume the Second Reading debate on the Bill at the Council meeting of 29 June 2016. A large majority of members who replied to the circular raised no objection to the said date of the resumption of the Second Reading debate on the Bill. On the instruction of the Chairman, members were advised vide LC Paper No. CB(2)1763/15-16 on 15 June 2016 that the Bills Committee had completed scrutiny of the Bill and would hold no further meeting.]

II. Any other business

7. There being no other business, the meeting ended at 10:49 am.

**Proceedings of the tenth meeting of
the Bills Committee on Medical Registration (Amendment) Bill 2016
held on Monday, 6 June 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>			
000902 - 000943	Chairman	Opening remarks	
000944 - 001141	Chairman Admin	<p>The Administration's response to issues raised at the meeting on 30 May 2016:</p> <p>(a) taking into account members' views, the Administration would revise its proposed Committee stage amendments ("CSAs") to the Bill to the effect that the decisions on whether an organization represented the interests of patients and hence, was eligible to elect the three persons representing patients' interests for appointment by the Chief Executive ("CE") to the Medical Council of Hong Kong ("the Medical Council") would be made by the Permanent Secretary for Food and Health (Health) instead of the Secretary for Food and Health; and</p> <p>(b) more than 200 patient groups and patient support groups being recognized by credible patient-related platforms, such as the Hospital Authority ("HA"), the Community Rehabilitation Network and the Social Welfare Department's Financial Support Scheme for Self-help Organizations of Persons with Disabilities/Chronic Illnesses, had been informed via email of the proposed election arrangement as far as practicable.</p>	
001142 - 001459	Chairman Admin ALA6 Dr LEUNG Ka-lau	On the Administration's draft CSAs to the Bill which sought to convert the two existing appointed seats to be nominated by the Hong Kong Academy of Medicine ("the Academy of Medicine") for appointment by CE to two elected seats to be elected by the Academy of Medicine, the Legal Adviser to the Bills Committee's advice that any CSA to the Bill had to 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. It was for the President to decide whether the proposed set of CSAs fell within the scope of the Bill.	
001500 - 003313	Chairman Dr LEUNG Ka-lau ALA6 Admin	Briefing by Dr LEUNG Ka-lau on his two sets of draft CSAs. One set of CSAs sought to increase the number of members elected by registered medical practitioners with full registration and limited registration and the number of lay members appointed by CE both by four ("4+4 proposal"). The other set of CSAs sought to increase the number of members elected by registered medical practitioners with full registration and limited registration and the number of lay members appointed by CE both by six ("6+6 proposal") [LC Paper No. CB(2)1604/15-16(01)].	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>The Administration's elaboration of its response to the two sets of draft CSAs to be proposed by Dr LEUNG Ka-lau as set out in LC Paper No. CB(2)1629/15-16(02).</p> <p>Dr LEUNG Ka-lau stressed that it was a normal practice to elect members of the Medical Council who were registered medical practitioners to be the chairman and deputy chairman of the Preliminary Investigation Committee ("PIC"). In view of the Administration's legislative proposal to enable the Medical Council to establish more than one PIC, there was a need to increase the number of registered medical practitioner members in order to take up the offices of chairman and deputy chairman of the additional PICs to be established upon the passage of the Bill. This apart, the significant increase in the number of registered medical practitioners in the past decades justified an increase in the number of elected registered medical practitioner members.</p> <p>The Administration's advice that the major objects of the Bill were to, among others, increase lay participation in the Medical Council and improve its complaint investigation and disciplinary inquiry mechanism. Some patient-related groups had indicated their objection to further increasing the number of registered medical practitioner members in the Medical Council. The Administration reiterated that the eight registered medical practitioner members who were not serving on the five statutory committees under the Medical Council would be available to serve on the additional PIC(s) to be established upon the passage of the Bill. In addition, any further increase in the membership size might affect the efficient operation of the Medical Council.</p>	
003314 - 003916	Chairman Mr Paul TSE Admin	<p>Mr Paul TSE's remark that the 6+6 proposal could achieve the effect of increasing the proportion of lay members in the Medical Council to 25% as proposed by the Bill, and a larger membership did not necessarily mean lower efficiency.</p> <p>The Administration's response that its current proposals had struck a proper balance between the views of the medical profession and patient groups.</p>	
003917 - 005138	Chairman Mr Tommy CHEUNG Admin Mr YIU Si-wing Miss Alice MAK	<p>Mr Tommy CHEUNG's view that the Administration's proposed CSAs to the Bill to convert the two existing appointed seats to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Academy of Medicine had addressed the concern of the medical profession on the need to maintain an equal ratio between appointed members and elected members. He noted that there would also be an increase in the number of registered medical practitioner assessors from 10 to 20 under the Administration's legislative proposals.</p> <p>Mr YIU Si-wing's remark that any increase in registered medical practitioner members in the Medical Council would go against the growing community aspiration for increasing lay involvement in the regulatory bodies of various professions (including the Medical Council) and trades.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		Miss Alice MAK's suggestion that consideration should be given to further increasing the number of lay members on the Medical Council such that the proportion of lay members would account for half of the membership.	
005139 - 005457	Chairman Mr Kenneth LEUNG Admin	Mr Kenneth LEUNG's view that the Administration should provide additional resources to strengthen the secretarial support for PIC and provide honorarium as a token of appreciation to experts who provided assistance to the investigation work.	
005458 - 010005	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's view that the Administration's proposed CSAs to the Bill to convert the two existing appointed seats to be nominated by the Academy of Medicine for appointment by CE to two elected seats to be elected by the Academy of Medicine failed to increase the elected element in the composition of the Medical Council; and his concern about the admissibility of the Administration's proposed CSAs.</p> <p>The Administration's advice that the said CSAs, which aimed to restore the ratio of elected and appointed members to 1:1 as currently reflected in section 3(2) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance"), fell within the scope of the Bill as it was incidental to the proposed addition of four lay members appointed by CE to the Medical Council.</p>	
010006 - 010547	Chairman Dr LEUNG Ka-lau Admin	<p>Dr LEUNG Ka-lau's remark that only two patient groups, namely the Hong Kong Alliance of Patients' Organizations and the Society for Community Organization, had indicated objection to increasing the number of registered medical practitioner members in the Medical Council. On the other hand, the results of his commissioned survey conducted by the Public Opinion Programme of the University of Hong Kong ("HKU") in April 2016 revealed that members of public did not have a strong view against the increase in the number of registered medical practitioner members. He urged the Administration to balance the views of the medical profession and the patient groups, and address the former's call for correspondingly increasing the number of elected registered medical practitioner members of the Medical Council in order to maintain an equal ratio of appointed members and elected members.</p> <p>The Administration's reiteration that the major objects of the Bill were to, among others, increase lay participation in the Medical Council and improve its complaint investigation and disciplinary inquiry mechanism. In its view, there was no need to increase the number of registered medical practitioner members of the Medical Council.</p>	
010548 - 010803	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's remark that the election arrangement under the Administration's proposal of converting the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine to two elected seats to be elected by the Academy of Medicine in accordance with its regulations or procedures was similar to the election arrangement for the seven	

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		registered medical practitioners who were members of the Hong Kong Medical Association ("the Medical Association").	
010804 - 010921	Chairman Miss Alice MAK ALA6	Deadline for giving notice of moving CSAs to the Bill	
010922 - 011233	Chairman Dr KWOK Ka-ki Admin	In response to Dr KWOK Ka-ki's enquiry, the Administration's reiterated the reason why it considered its proposed CSAs to convert the two existing appointed seats of the Medical Council to be nominated by the Academy of Medicine to two elected seats to be elected by the Academy of Medicine fell within the scope of the Bill.	
011234 - 012134	Chairman Dr LEUNG Ka-lau Admin	<p>Dr LEUNG Ka-lau's remark that the Medical Council had adhered to the principle that overlapping membership among the different proceedings of the Medical Council and its committees relating to same underlying facts was prohibited. Currently, there were only eight registered medical practitioner members who were not serving on any of the five statutory committees, i.e. the Chairman of the Medical Council and a member who actively took part in inquiries, two senior directorate officers of the Department of Health, three senior executives of HA, and a member in private practice. In his view, these members would very unlikely take up the role of chairman or deputy chairman of PIC for various reasons. Hence, there would not be sufficient number of untainted registered medical practitioner members to be elected as chairman and deputy chairman of the additional PIC(s) to be established after the passage of the Bill.</p> <p>The Administration's view that there was no prohibition under the Ordinance for the 16 registered medical practitioner members of the Medical Council serving on other statutory committees to serve concurrently on PIC. For instance, the five registered medical practitioner members currently serving on the Ethics Committee, as well as the said eight registered medical practitioner members who were not serving on any of the five statutory committees, could serve on the additional PIC(s) to be established after the passage of the Bill.</p>	
012135 - 013207	Chairman Mr Alan LEONG Dr LEUNG Ka-lau	<p>Dr LEUNG Ka-lau's remark in response to Mr Alan LEONG's concern about how the 4+4 proposal and 6+6 proposal could enhance the credibility of the Medical Council and preserve the professional autonomy of the medical profession:</p> <p>(a) both proposals could maintain the current 1:1 ratio between appointed members and elected members so as to preserve professional autonomy. The proportion of lay membership would increase from 14% to 22% under the 4+4 proposal and 25% under the 6+6 proposal. While both proposals could enhance the credibility of the Medical Council, the proportion of lay membership of the latter would be on par with that proposed under the Bill; and</p> <p>(b) since not all registered medical practitioners were members of the Academy of Medicine, many members of the</p>	

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		<p>medical profession did not agree that the Administration's proposal to convert the two existing appointed seats to be nominated by the Academy of Medicine to two elected seats to be elected by the Academy of Medicine had enhanced the elected element in the composition of the Medical Council.</p>	
013208 - 013618	Chairman Dr KWOK Ka-ki Admin	<p>Briefing by Dr KWOK Ka-ki on his draft CSA to the proposed amended section 21B(2) of the Ordinance which sought to increase the total number of assessors by increasing the number of lay assessors nominated by the Secretary for Food and Health from four to 14, increasing the number of registered medical practitioner assessors nominated by the Director of Health, HA, the Academy of Medicine, HKU and The Chinese University of Hong Kong respectively from two to four each, and adding eight registered medical practitioner assessors to be nominated by the Medical Association from among its members [LC Paper No. CB(2)1656/15-16(01)].</p> <p>The Administration's elaboration of its response to the above draft CSA to be proposed by Dr KWOK Ka-ki as set out in LC Paper No. CB(2)1659/15-16(01).</p>	
013619 - 014537	Chairman Dr LEUNG Ka-lau Mr Tommy CHEUNG Admin	<p>Briefing by Dr LEUNG Ka-lau on his draft CSAs which sought to (a) amend the proposed refined quorum for conducting inquiries under the Bill by removing the requirement of having at least one registered medical practitioner assessor (i.e. the proposed quorum would become a panel of five persons, with at least (i) one member of the Medical Council who was a registered medical practitioner and (ii) one lay member of the Medical Council or lay assessor), subject to the majority being registered medical practitioners; and (b) increase the total number of assessors by adding ten registered medical practitioner assessors to be nominated by the Medical Association from among its members [LC Paper No. CB(2)1656/15-16(02)]. He stressed that the former CSA was in line with the suggestion of the Medical Council as set out in its submission [LC Paper No. CB(2)1230/15-16(02)]. This would provide the Medical Council the flexibility in forming quorum for the conduct of inquiries.</p> <p>The Administration's elaboration of its response to the above CSAs as set out in LC Paper No. CB(2)1659/15-16(02).</p>	
014538 - 021528	Chairman Dr LEUNG Ka-lau Mr James TO Admin Mr Albert HO	<p>The Chairman's decision to extend the meeting for 15 minutes beyond its appointed time to allow more time for discussion.</p> <p>Dr LEUNG Ka-lau and Mr James TO queried about the legal grounds for not allowing members of the Medical Council not on roster to attend inquiry under the roster system currently put in place by the Medical Council. Dr LEUNG Ka-lau indicated that he would propose another CSA to the Bill to delete the proposed amended section 21B(1) of the Ordinance as it introduced a fundamental change to the composition of quorum of a meeting of the Medical Council held for an inquiry.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>Mr Albert HO and Mr James TO were concerned about whether a meeting of the Medical Council held for the purpose of an inquiry should be a meeting held by the Medical Council as a whole. They considered it more appropriate for the Ordinance to provide for the Medical Council to appoint committees from amongst its members to conduct inquiries.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> (a) as confirmed by the court in <i>The Hong Kong Medical Association v Medical Council of Hong Kong (HCAL 70/2012)</i>, section 4 of the Ordinance pointed out that the Medical Council might meet in different capacities and for different purposes; (b) sections 21 and 21B of the Ordinance provided that the Medical Council conducting the disciplinary inquiry under section 21 was the Medical Council consisting of those members of the Medical Council and assessors (if any) who participated in the inquiry. The Administration had taken the opportunity of this legislative exercise to add a new section 21(7) to the Ordinance to clarify that in relation to an inquiry, a reference to the Medical Council in section 21 (except the references specified in clause 10 of the Bill) was a reference to the members and assessors mentioned in the proposed amended section 21B(1) who participated in the inquiry. This was consistently mirrored in the proposed amended section 21B(1), which provided for the quorum at each meeting of the Medical Council (within the meaning of the proposed new section 21(7)) held for an inquiry under section 21 of the Ordinance; (c) in accordance with section 40 of the Interpretation and General Clauses Ordinance (Cap. 1) and section 4(6) of the Ordinance, the Medical Council was empowered to introduce administrative measures, such as the roster system, for the better performance of its duty of conducting inquiry as provided for in section 21B of the Ordinance; (d) on the recommendation of the Independent Commission Against Corruption, the Medical Council had decided to introduce a roster system for conducting inquiries since 2009. A rota of seven adjudicating members (i.e. four registered medical practitioner members of the Medical Council, one lay member of the Medical Council and two assessors) would be drawn up for each inquiry hearing; and (e) in view of the genuine difficulty in forming a quorum for conducting an inquiry under the existing quorum requirement, the legislative proposal to adjust the quorum requirement would allow more flexibility for the Medical Council to form a quorum to conduct an inquiry. It was for the Medical Council to decide how the quorum should be formed after the passage of the Bill. 	

Time marker	Speaker	Subject(s)/Discussion	Action required
		The Chairman's request for the Administration to provide a detailed written response in this regard.	Admin
021529 - 022009	Chairman Miss Alice MAK Mr James TO Dr LEUNG Ka-lau Mr Alan LEONG Mr Tommy CHEUNG Clerk	Deadline for giving notice of moving CSAs to the Bill Way forward of the Bills Committee	
<i>Agenda item II: Any other business</i>			
022010 - 022020	Chairman	Closing remarks	

Council Business Division 2
Legislative Council Secretariat
22 September 2016