



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2840 0467)

15 March 2016

Mr FONG Ngai
Prin AS for Food & Health (Health)3
Food and Health Bureau
19/F, East Wing
Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Mr FONG,

Medical Registration (Amendment) Bill 2016

I am scrutinizing the legal and drafting aspects of the Bill and should be grateful for your clarification on the issues set out below.

Part I: Legal Issues

Article 142(3) of the Basic Law (BL)

At the meeting of the Panel on Health Services on 29 February 2016, a member raised a concern regarding the constitutionality of bills, if passed, which seek to amend the composition of membership of the governing bodies of professional organizations under existing legislation in the light of Article 142(3) of BL. Please explain the limitation imposed by Article 142(3) of BL in respect of such a legislative proposal and how the proposals under the Bill regarding the membership of the Medical Council of Hong Kong (the Medical Council) and its committees are in compliance with Article 142(3) of BL.

Clause 10 of and Part 1 of Schedule 1 to the Bill

The proposed section 21(4A) of the Medical Registration Ordinance (Cap. 161) provides that a member of a Preliminary Investigation Committee (PIC) who is also a member of the Medical Council must not attend a meeting of the Medical Council whilst it is inquiring into a complaint or information, in the preliminary investigation of which such member took part. Since a lay assessor or an assessor who is a registered medical practitioner, being a non-member of the Medical Council, may be appointed to a PIC pursuant to the proposed section 20S of Cap. 161 and that such an assessor may attend a meeting of the Medical Council held for a disciplinary inquiry under section 21 of Cap. 161, please advise whether the restriction under the proposed section 21(4A) of Cap. 161 should be extended to cover such an assessor who has taken part in the relevant preliminary investigation.

Please also explain the reason(s) that the restriction imposed under the proposed section 21(4A) of Cap. 161 does not apply to a member of the Health Committee or the Education and Accreditation Committee who has participated in the relevant preliminary investigation, as such committees may also refer a matter for the consideration by the Medical Council.

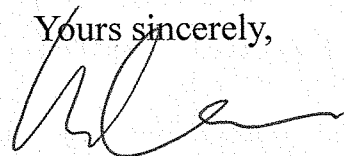
Part II: Drafting Issue

Clause 10 and Part 1 of Schedule 1

Under section 21(4C) of Cap. 161, should "the council" rather be "the Council"?

I would be grateful if you could let me have your reply in bilingual form as soon as possible, preferably on or before 12:00 pm on 18 March 2016.

Yours sincerely,



(Wendy KAN)

Assistant Legal Adviser

c.c. DoJ (Attn: Miss Cindy CHEUK (By Fax: 3918 4613))
Clerk to Bills Committee
LA
SALA3