



香港醫務委員會
The Medical Council of Hong Kong

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Ensuring Justice

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貴處檔號：

Your Ref.

本會檔號：

Our Ref.

MC 2/L

電話

Tel. No.

For discussion on 11 April 2016

Legislative Council
Bills Committee on Medical Registration (Amendment) Bill 2016
Written Submission by the Medical Council of Hong Kong

On the invitation of the Secretary for Food and Health, the Medical Council of Hong Kong at its Policy Meeting held on 3 February 2016 discussed the Government's proposal to introduce the Medical Registration (Amendment) Bill 2016, and provided a written reply to the Secretary for Food and Health on 2 March 2016.

The Bills Committee may refer to the attached written reply regarding the views of the Council Members on the matter.

5 April 2016



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By Fax (2840 0467) and By Post

2 March 2016

Dr KO Wing Man, BBS, JP
Secretary for Food and Health
The Government of the Hong Kong Special Administrative Region
17-19/F, East Wing, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Ko,

Medical Registration (Amendment) Bill 2016

I would like to inform you that the Medical Council of Hong Kong ("the Medical Council") at its Policy Meeting on 3 February 2016 had discussed about the Government's proposal to introduce certain changes to the Medical Registration Ordinance (Cap. 161) as set out in your letter of 5 January 2016.

Members are supportive to the proposed changes, except for a few items where they have expressed different views, which were summarized at Annex. I should be most grateful if you would take them into account in taking the matter forward.

Thank you for introducing the legislative amendments to enhance the roles and functions of the Medical Council. Please keep us posted of any further development of the matter.

Yours sincerely,

(Prof. Joseph LAU, SBS)
Chairman,
The Medical Council of Hong Kong

**Views of Members of the Medical Council of Hong Kong
expressed at its Policy Meeting on 3 February 2016**

Government's proposed changes to the Medical Registration Ordinance	Views expressed
(a) Composition of membership of the Council	
(i) To increase the number of lay Council Members in the Council from four to eight.	<ul style="list-style-type: none"> • The Council was supportive of the increase of lay Members in the Council from four to eight. There was a view that this would be a step to enhance accountability to the public. • However, some Members opined that if the lay Members are increased by four, the elected medical Members of the Council should be increased by four correspondingly. They opined that increasing only the lay Members could not assist the Council in improving its efficiency in handling complaints and conducting disciplinary inquiries. As medical Members would also be involved in the PIC and the inquiry stages, their number should also be increased to cater for the increased workload after the setting up of the additional PIC as proposed under (b)(ii) below and the increased number of inquiries arising from the Government's current proposal. The increase of medical Members could also avoid the situation of insufficient untainted Council Members to form a quorum in later stages of the Council's proceedings against the defendant doctor. • Some Members also opined that both lay Members and medical Members of the Council should be increased by six, so that the ratio of lay Members and medical Members would be 1:3, same as the ratio under the Government's proposal.

Government's proposed changes to the Medical Registration Ordinance	Views expressed
(ii) To increase the number of lay Council Members in the Preliminary Investigation Committee ("PIC") from one to two.	<ul style="list-style-type: none"> The Council considered that increasing the number of lay Council Members was to share out the heavy workload in complaint handling and disciplinary inquiry, and hence to expedite the whole process. The proposed increase of lay Council Members in the PIC to two (i.e. a total of four lay Council Members in the two PICs) would use up the manpower of lay Council Members. Besides, they would be tainted and could not take part in the subsequent proceedings of the Council (e.g. disciplinary inquiry and Health Committee hearing, etc.). Whilst the Council had no objection to the Government's proposal to set up more than one PIC, the number of lay Council Members in each PIC should be maintained at one in order to save the manpower of lay Council Members.
(iii) To increase the number of lay Council Members in the Health Committee from one to two.	<ul style="list-style-type: none"> The Council was supportive of the proposal.
(b) Improve complaint investigation and disciplinary inquiry mechanism	
<u>PIC</u>	
(i) To allow a lay Member to be replaced by a lay assessor in forming the quorum of a PIC meeting.	<ul style="list-style-type: none"> The Council was supportive of the proposal, which was the same as the one proposed by the Council in 2014.
(ii) To enable the Council to set up more than one PIC to speed up complaint investigation.	<ul style="list-style-type: none"> The Council had no objection to set up more than one PIC in principle. Same as the concern at (a)(i) above, some Members considered that the medical Members in the Council should be increased as two of them had to be elected to serve on the additional PIC.

Government's proposed changes to the Medical Registration Ordinance	Views expressed
<u>Disciplinary Inquiry</u>	
(iii) To increase the number of lay assessors from four to fourteen.	<ul style="list-style-type: none"> The Council was supportive of the proposal, which was the same as the one proposed by the Council in 2014.
(iv) To increase the number of assessors who are registered medical practitioners nominated by Director of Health, the Hospital Authority, the Hong Kong Academy of Medicine, the University of Hong Kong and The Chinese University of Hong Kong from two to four each. This will increase the total number of medical assessors from ten to twenty.	<ul style="list-style-type: none"> The Council was supportive of the proposal.
(v) To change the quorum of an inquiry meeting to five persons who shall be a Council Member or an assessor, with at least one Council Member who is a registered medical practitioner, one assessor who is a registered medical practitioner, and one lay Council Member or one lay assessor, subject to the majority being registered medical practitioners.	<ul style="list-style-type: none"> The Council suggested that the quorum of an inquiry meeting of five persons shall only include at least (i) one Council Member who is a registered medical practitioner, and (ii) one lay Council Member or one lay assessor, subject to the majority being registered medical practitioners. Noting that medical assessor was currently not required in forming the quorum under the Ordinance, nor it be required under the Council's proposal submitted in 2014, the Council proposed to exclude "one assessor who is a registered medical practitioner" from the quorum in order to allow more flexibility.
<u>Legal Support</u>	
(vi) To allow the MCHK to appoint more than one legal adviser.	<ul style="list-style-type: none"> The Council was supportive of the proposal, which is the same as the one proposed by the Council in 2014.

Government's proposed changes to the Medical Registration Ordinance	Views expressed
(vii) To enable the Secretary for Justice to appoint any counsel or solicitor (besides Department of Justice counsel) to carry out legal duties for inquiries.	<ul style="list-style-type: none"> • The Council opined that outside counsel or solicitor should only be appointed by the Secretary for Justice to carry out the duties of the Secretary in respect of an inquiry if the Chairman had, after taking into account the nature and gravity of a particular case, decided to request the Secretary for Justice to engage outside counsel or solicitor. • The Council was mindful of the potential problem that the outside counsel or solicitor subsequently appointed for the inquiry of a case might not be conversant of the rationale behind and/or expert medical evidence in support of the charge(s) originally framed by the PIC with the assistance of the Department of Justice counsel involved in handling the same case.
(c) Facilitate the admission of non-locally trained doctors	
(i) To enable the Council to approve application for limited registration up to three years, instead of one year as provided under section 14A of the MRO.	<ul style="list-style-type: none"> • The Council was supportive of the proposal.

February 2016