

Bills Committee on the Medical Registration (Amendment) Bill 2016

Government's response to the follow-up actions arising from the discussion at the meeting on 25 April 2016

Ratio of Elected and Appointed Members
and
Proposed Four Additional Lay Members

This note provides the Government's response to the follow-up actions arising from the discussion at the meeting on 25 April 2016, concerning (a) the ratio of elected and appointed members in the Medical Council of Hong Kong ("MCHK") and (b) the proposed four additional lay members to MCHK.

Consultation with relevant stakeholders

2. The Government has been consulting relevant stakeholders including the medical profession and patient-related groups on the Medical Registration (Amendment) Bill 2016 as well as the proposed committee stage amendments. We have maintained continuous dialogue with, among others, MCHK, Hong Kong Academy of Medicine ("HKAM"), Hong Kong Medical Association, Hong Kong Public Doctors' Association, Hong Kong Doctors Union and Médecins Inspirés. For patient groups, the Government has been maintaining dialogue with, among others, Hong Kong Alliance of Patients' Organizations Limited, Hong Kong Patients' Voices and Society for Community Organization.

Ratio of elected and appointed members in MCHK

3. In response to the demand of some doctors' associations that the current ratio between elected and appointed members at 1:1 should be maintained after the addition of four lay members in order to preserve the professional autonomy of medical profession, the Government is prepared to address the concern by proposing amendment to the Bill to

maintain the number of elected and appointed members in MCHK at 1:1.

4. After consultation with relevant stakeholders including doctors' associations, patient groups and Legislative Council ("LegCo") Members, the Government proposes to convert the two existing appointed members nominated by HKAM to two members to be elected by HKAM, in order to maintain an equal ratio of elected and appointed members in MCHK.

5. Operating under the principle of professional autonomy, HKAM is a statutory body established under the Hong Kong Academy of Medicine Ordinance (Cap. 419). It has statutory power to organise, monitor, assess and accredit all medical specialist training and to oversee the provision of continuing medical education.

6. The Council of HKAM currently has 26 members, consisting of six Officers (a President, two Vice-Presidents, Honorary Secretary, Honorary Treasurer, and Editor) who are nominated and elected by Council members¹, 15 College Presidents who are elected by members of the Colleges in general², and five elected Council members who are nominated and elected by all Fellows of HKAM³. HKAM has 15 Colleges and around 7 400 Fellows.

7. As the number of Fellows in each College of HKAM varies from 1 600 to less than 200, HKAM considers that an election from all Fellows for representation at MCHK is unfair to those Colleges with fewer Fellows. HKAM supports the Government's proposal to convert the two existing appointed members nominated by HKAM to two members to be elected by HKAM.

¹ Section 8(2) of Hong Kong Academy of Medicine Regulation (Cap. 419B) - "The 6 Officers shall be nominated and elected by the members of the Council."

² College Presidents are elected in accordance with the constitutions of each College. For most of the colleges (11 Colleges including Colleges of Community Medicine, Emergency Medicine, Family Physicians, Ophthalmologists, Orthopaedic Surgeons, Otorhinolarygologists, Paediatricians, Pathologists, Physicians, Psychiatrists and Radiologists), the College President is nominated and elected by all College members. For a few Colleges (4 Colleges including Colleges of Anaesthesiologists, Dental Surgeons, Obstetricians & Gynaecologists and Surgeons), the College President is nominated and elected by the College Councillors who are nominated and elected by all College members.

³ Section 8(3) of Hong Kong Academy of Medicine Regulation (Cap. 419B) - "The elected Council members under section 9(2)(b) of the Ordinance shall be nominated and elected by all Fellows."

8. Having regard to the principle of professional and academic autonomy and the fact that HKAM is governed by the Hong Kong Academy of Medicine Ordinance (Cap. 419), the Government proposes not to specify the nomination and election procedures in the legislation and should defer to HKAM as to how it elects two registered medical practitioners, having regard to the rules and regulations governing its operation, to be the Council members of MCHK (vide LegCo Paper No. CB(2)1349/15-16(02)).

9. We have considered the views of different stakeholders and the various proposed options to maintain an equal ratio between elected and appointed members in MCHK. We consider that the proposal to convert the two existing appointed members nominated by HKAM to two members to be elected by HKAM is the most appropriate option to achieve the objective of maintaining an equal ratio of elected and appointed members in MCHK and the aim of the Bill i.e. increasing lay participation of MCHK so as to enhance its public accountability, transparency and credibility. The Government does not accept the proposed corresponding increase of elected doctor members (i.e. “4+4” or “6+6” proposals) on the ground that there are already 24 doctor members in the current MCHK.

Proposed four additional lay members

10. Among the four additional lay members, we propose that three members should come from the sector representing patients’ interests and one from that representing consumers’ interest.

Arrangement for three persons representing patients’ interests

11. As stated in our previous submission (LC Paper No. CB(2)1349/15-16(02)), to the best of our knowledge, there are more than 200 bodies which are established as patient groups or patient support groups. It is noted that these bodies are of different scale (with membership ranges from 40 000 to less than 100), different structure (some are societies established under the Societies Ordinance (Cap 151);

some are companies incorporated under the Companies Ordinance (Cap 32); and some are not legal entities but are organised to carry out activities to promote and/ or present patients' interests). These patient groups or patient support groups serve different target groups including patients and patients' relatives.

12. The Government has consulted major patient-related groups on the detailed arrangement for nominating representatives to sit on MCHK. Representatives present at the meeting pointed out that the legislation **should not aim to formulate a precise definition of patient groups or patient support groups**. They considered it **more desirable and practical for the legislation to allow sufficient flexibility** to include as many relevant patient-related groups as possible. They also propose that the legislation **should not specify the detailed election arrangement** so that the patient-related groups could work out the best arrangement among themselves.

13. We propose that patient-related groups may elect representatives among themselves in accordance with the guidelines agreed among the patient-related groups, for appointment by CE. The Secretary for Food and Health will, taking into account a range of factors (at **Annex A**), recognise organisations/ bodies which are eligible for electing persons representing patients' interests. Each organisation/ body will be entitled one vote. Detailed election arrangement will be formulated in consultation with patient-related groups. The Government will provide necessary administrative support to facilitate the patient-related groups to carry out the election.

Arrangement for one person representing consumers' interest

14. We have further discussed with the Consumer Council on the proposal for having one person representing consumers' interest at MCHK. The Consumer Council welcomes the proposal and has expressed that in order for it to make a positive contribution to the work of MCHK, they should be given the flexibility to nominate a person who has knowledge and experience in consumer protection and at the same time could afford the time to sit as lay member of MCHK.

Proposed committee stage amendments

15. The proposed wording of the committee stage amendments on (a) two MCHK members to be elected by HKAM and (b) proposed four additional lay members in MCHK are at **Annex B**.

Food and Health Bureau
May 2016

**Factors to be considered by the Secretary for Food and Health
for organisations/ bodies which are eligible for electing
three persons representing patients' interests**

- (a) The organisation/body should be
 - (i) a society established under the Societies Ordinance (Cap. 151);
 - (ii) a company incorporated under the Companies Ordinance (Cap. 32); or
 - (iii) an organisation/ a body recognised by credible patient-related platform e.g. the Hospital Authority, Community Rehabilitation Network⁴.

- (b) The mission of the organisation/body is to promote and/ or represent patients' interests.

- (c) The organisation/body should be in operation for a specified period, say two years, and have been carrying out activities to promote and/or represent patients' interests and/ or to advocate relevant policy proposals.

Regarding the election procedures, the Government undertakes to work with the patient-related groups to come up with a method to be agreed among themselves.

⁴ Community Rehabilitation Network (CRN) was founded in 1994. Supported by the Social Welfare Department, CRN currently has six centers to provide community-based rehabilitation service for people with chronic illness and their family members.

Medical Registration (Amendment) Bill 2016

Committee Stage

Amendments to be moved by the Secretary for Food and Health

Clause

Amendment Proposed

4

By deleting the clause and substituting—

“4. Section 3 amended (establishment and composition of Council)

(1) Section 3(2)(g)—

Repeal the paragraph

Substitute

“(g) 8 lay members to be appointed by the Chief Executive—

(i) 3 of whom are elected by the organizations specified by the Secretary for Food and Health under subsection (3AA) in accordance with the guidelines issued by the Secretary in consultation with those organizations; and

(ii) 1 of whom is nominated by the Consumer Council;”.

(2) Section 3(2)(h)—

Repeal

everything after “practitioners”

Substitute

“elected by the Hong Kong Academy of Medicine in accordance with its regulations or procedures for the purpose of filling of offices under this paragraph;”.

- (3) Section 3(3)—

Repeal

“, (g) or (h)”

Substitute

“or (g)”.

- (4) After section 3(3)—

Add

“(3AA) The Secretary for Food and Health may, for the purposes of subsection (2)(g)(i), specify by notice published in the Gazette an organization that, in the Secretary’s opinion, represents the interests of patients.”.

- (5) Section 3(3A)—

Repeal

“(2)(i)”

Substitute

“(2)(h), (i)”.

- (6) Section 3(5A)—

Repeal

everything after “holding office under” and before “the member elected”

Substitute

“subsection (2)(h) or (i), the member resigns or the member’s office becomes vacant—

(a) the Hong Kong Academy of Medicine or the Hong Kong Medical Association (as the case requires) must, as soon as possible, conduct an election to elect a person qualified under subsection (2)(h) or (i) (as the case requires) to fill that vacancy; and

(b) ”.

New

By adding—

“12A. Section 35 amended (transitional)

At the end of the section—

Add

“(10) If, on the commencement of section 4 of the Medical Registration (Amendment) Ordinance 2016, the term of office of a person referred to in section 3(2)(h) as in force immediately before the commencement has not yet expired, the member may continue to hold office until the member’s term of office expires.”.