

II. REPORT

The date of First Reading of the Bill is 2 March 2016. Members may refer to the LegCo Brief (File Ref.: FHCR1/F/3261/92) issued by the Food and Health Bureau on 24 February 2016 for further details.

Object of the Bill

2. The Bill amends the Medical Registration Ordinance (Cap. 161), the Medical Registration (Miscellaneous Provisions) Regulation (Cap. 161D) and the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161E) to –

- (a) increase lay participation in the Medical Council of Hong Kong (the Medical Council), the Preliminary Investigation Committee (PIC) and the Health Committee (HC);
- (b) introduce changes to the complaint investigation and disciplinary inquiry mechanism of the Medical Council; and
- (c) extend the term of registration of medical practitioners with limited registration.

Background

3. The Medical Council, which is established under Cap. 161, is responsible for the registration of medical practitioners and specialists, the conduct of Licensing Examination, and the maintenance of ethics, professional standards and discipline in the medical profession. The Medical Council currently consists of a total of 28 members, with 24 being registered medical practitioners nominated or elected by specified persons and four lay members to be appointed by the Chief Executive (CE).

4. PIC and HC are two of the committees formed by the Medical Council. PIC, at present, comprises seven members, including one of the four lay members of the Medical Council. One of the functions of PIC is to make preliminary investigations into complaints that may be inquired into by the Medical Council. HC, on the other hand, is currently composed of nine to 11 members, including one of the four lay members of the Medical Council. HC has various functions including the conducting of a hearing into any case or matter concerning the health or physical or mental fitness to practise of any registered medical practitioner.

5. According to paragraphs 2, 4 and 5 of the LegCo Brief, while a strategic review on healthcare manpower planning and professional development in Hong Kong is expected to be completed in mid-2016, the Administration considers it necessary to amend Cap. 161 pending completion of the review in response to the public concerns over the efficiency of the Medical Council in complaint investigation and disciplinary inquiries as well as its lack of flexibility for the admission of non-locally trained doctors.

Provisions of the Bill

Increasing lay participation in the Medical Council, PIC and HC

6. The Bill amends sections 3(2)(g), 20S and 20U(1)(g) of Cap. 161 to increase the number of lay persons on the Medical Council, PIC and HC as follows –

- (a) the number of lay members on the Medical Council to be appointed by CE would be increased from four to eight (clause 4);
- (b) the number of lay persons on PIC would be increased from one lay member of the Medical Council to two lay persons who may either be a lay member of the Medical Council or a lay assessor appointed under the proposed section 21B(2)(f) of Cap. 161 (Relevant Lay Persons); the term of appointment of a Relevant Lay Person would also be extended from a period of not exceeding three months to a period of not exceeding 12 months as the Medical Council may specify in his or her letter of appointment (clause 8); and
- (c) the number of lay persons on HC would be increased from one of the lay members of the Medical Council to two of the lay members of the Medical Council (clause 9).

Changes to the complaint investigation and disciplinary inquiry mechanism of the Medical Council

7. The Bill also proposes the following changes to the mechanism of the Medical Council for complaint investigation and disciplinary inquiry –

- (a) clause 7 of the Bill amends section 20BA(2)(d) of Cap. 161 to enable the Medical Council to establish more than one PIC;
- (b) clause 11 of the Bill amends section 21B of Cap. 161 to amend the composition of the quorum of a meeting of the Medical Council held for a disciplinary inquiry on a case referred to it by, among others, PIC to the effect that while registered medical practitioners would still be the majority at the inquiry meeting, the five persons forming the quorum

must have at least one member of the Medical Council who is a registered medical practitioner, one lay member of the Medical Council or a lay assessor, and one assessor who is a registered medical practitioner;

- (c) clause 11 of the Bill also increases the total number of assessors who are registered medical practitioners nominated by specified persons from 10 to 20 and the total number of lay assessors nominated by the Secretary for Food and Health from four to 14;
- (d) clause 5 of the Bill amends section 3B of Cap. 161 to enable the Medical Council to have more than one legal adviser; and
- (e) clause 14 of the Bill amends section 21 of Cap. 161E so that the Secretary for Justice may appoint any solicitor or counsel to carry out the duties of the secretary of the Medical Council to assist in a disciplinary inquiry.

Extending the term of registration of medical practitioners with limited registration

8. Under the current section 14A(2) of Cap. 161, the Medical Council may approve the registration of a person as a medical practitioner with limited registration if all the specified conditions are met. One of the specified conditions is that the applicant must have obtained an acceptable overseas qualification. Clause 6 of the Bill amends section 14A of Cap. 161 to extend the maximum term of limited registration and renewal of such registration from a period of not exceeding one year to a period of not exceeding three years.

Other amendments

9. The Bill also makes other amendments as follows –
- (a) clause 10 of the Bill amends section 21 of Cap. 161 to clarify that only the members and assessors mentioned in the proposed section 21B(1) who participate in the inquiry can review a decision or order made in the inquiry; and
 - (b) other provisions of the Bill make corresponding amendments to other provisions of Cap. 161 and its subsidiary legislation in the light of the proposed amendments set out in paragraphs 6 and 7 above.

Commencement

10. The Bill, if passed, would come into operation on the day it is published in the Gazette as an Ordinance.

Public Consultation

11. According to paragraph 12 of the LegCo Brief, the Administration has informed the Medical Council of the Bill and met with the Hong Kong Medical Association to hear their views on the Bill. The Administration has also met with other stakeholders including patient groups and the Consumer Council to collect their views.

Consultation with LegCo Panel

12. As advised by the Clerk to Panel on Health Services, the Administration briefed the Panel on 29 February 2016 on the Bill. Members generally supported the legislative proposals, but raised concerns on certain issues, including the criteria for selecting the lay members to be appointed by CE on the Medical Council, the change in the ratio of appointed members to elected members on the Medical Council and the implications on professional autonomy, and the effectiveness of the legislative proposals in enhancing the efficiency of the complaint investigation and disciplinary inquiry mechanism of the Medical Council.

Conclusion

13. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. In view of the concerns raised at the Panel meeting, Members may wish to form a Bills Committee to study the Bill in detail.

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