

立法會
Legislative Council

LC Paper No. CB(2)2034/15-16

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HS

Panel on Health Services

**Minutes of special meeting
held on Monday, 29 February 2016, at 3:00 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN (Chairman)
Dr Hon LEUNG Ka-lau (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Albert CHAN Wai-yip
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Member attending : Hon Tommy CHEUNG Yu-yan, GBS, JP

Members absent : Hon CHEUNG Kwok-che
Dr Hon Elizabeth QUAT, JP
Hon POON Siu-ping, BBS, MH

**Public Officers : Item I
attending**

Dr KO Wing-man, BBS, JP
Secretary for Food and Health

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

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

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Janet SHUM
Senior Council Secretary (2) 5

Ms Priscilla LAU
Council Secretary (2) 5

Ms Louisa YU
Legislative Assistant (2) 5

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I. Medical Registration (Amendment) Bill 2016

[File Ref.: FHCR1/F/3261/92 and LC Paper No. CB(2)944/15-16(01)]

Secretary for Food and Health ("SFH") briefed members on the Medical Registration (Amendment) Bill 2016 ("the Bill"), details of the legislative proposals were set out in the Legislative Council ("LegCo") Brief issued by the Food and Health Bureau (File Ref.: FHCR1/F/3261/92).

2. Members noted the background brief prepared by the LegCo Secretariat entitled "The Medical Council of Hong Kong" (LC Paper No. CB(2)944/15-16(01)).

Increasing lay participation in the Medical Council and its committees

3. Miss Alice MAK, Mr Tommy CHEUNG, Mr YIU Si-wing and Mr WONG Ting-kwong expressed support to the Bill. Dr KWOK Ka-ki and Dr LEUNG Ka-lau remarked that the medical profession generally raised no objection to the Administration's legislative proposal of increasing the number of lay members in the Medical Council of Hong Kong ("the Medical Council") from four to eight. Dr Fernando CHEUNG expressed support to the legislative proposal which would increase lay participation in the Medical Council and enhance its accountability in discharging its self-regulating functions.

4. Mr CHAN Kin-por was of the view that while the proposal would increase lay membership of the Medical Council from about 14% to 25%, the proportion of lay members on the Medical Council was still on the low side when compared to that of the medical regulatory bodies in Canada, Australia, New Zealand (for which lay persons comprise one-third of the membership) and the United Kingdom (for which lay persons comprise half of the membership). He considered that the Administration should further increase the number of lay members on the Medical Council in the future. Mr Vincent FANG and Mr YIU Si-wing held a similar view. Citing the gradual increase in the number of independent directors appointed by the Government to the Travel Industry Council of Hong Kong from four to 12 as an example, Mr YIU Si-wing pointed out that there was a trend of greater involvement of lay members in regulatory bodies to enhance their transparency and credibility.

5. SFH advised that the current legislative proposal was formulated in the light of global trend towards, and an incessant call from the public for greater involvement of lay members in the regulatory bodies of the healthcare profession. The Administration considered that the proposed addition of four lay members was appropriate as the lay participation would increase from 14% to 25%. In response to Mr YIU Si-wing's enquiry about the lay participation in the Preliminary Investigation Committee ("PIC") of the Medical Council, SFH advised that another legislative proposal put forth by the Administration was to increase the number of lay persons on PIC from one lay member of the Medical Council to two lay persons who might be a lay member of the Medical Council or a lay assessor.

6. Dr KWOK Ka-ki was concerned that the proposed four additional lay persons would be appointed by the Chief Executive ("CE") to the Medical Council. In his view, under the current term Government, any increase in the number of members appointed by CE in statutory regulatory bodies might result in increased Government control. Expressing similar concern, Mr Albert HO suggested that the appointment by CE of lay persons to the

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Medical Council should be based on nominations by credible bodies. SFH agreed to consider the suggestion.

7. Mr Tommy CHEUNG suggested that two of the four proposed additional lay members of the Medical Council should be elected by LegCo from among its members. SFH responded that there was strong call from some patient groups that the four proposed additional lay members should be persons representing the interests of patients and consumers.

Ratio of appointed members and elected members in the Medical Council

8. Dr KWOK Ka-ki noted that the membership of many other professional bodies such as the Hong Kong Bar Association, the Law Society of Hong Kong and the Hong Kong Institute of Architects did not comprise members appointed by CE. He asked why the Administration did not take heed of the view of the Hong Kong Medical Association ("the Medical Association") that the number of elected registered medical practitioner members of the Medical Council should be correspondingly increased by four in the light of the proposed increase in the number of lay members to be appointed by CE to the Medical Council.

9. Dr Fernando CHEUNG opined that in view of the existing low level of trust in the Government, the current 1:1 ratio between appointed members and elected members of the Medical Council should be maintained. He sought the Administration's view on Dr LEUNG Ka-lau's proposal to increase the number of lay members appointed by CE to the Medical Council and the number of registered medical practitioner members elected by registered medical practitioners with full registration and limited registration both by six ("the 6+6 proposal"). The merit of this proposal was that the proportion of lay membership would increase to 25%, to be on par with that proposed under the Administration's legislative proposal. Mr WONG Ting-kwong remarked that while it was important to uphold the principle of professional autonomy, there was also a need to address the public's criticism of medical professionals protecting the interest of each other under the existing mechanism.

10. SFH advised that in view of Mr Tommy CHEUNG's proposal to introduce a Member's Bill to amend the Medical Registration Ordinance (Cap. 161) to increase lay participation in the Medical Council and its PIC and Health Committee, pending the completion of its strategic review on healthcare manpower planning and professional development in Hong Kong ("the strategic review") which also pointed to the need to increase involvement of lay members in the regulatory bodies of the medical profession, the Administration decided to introduce the Bill into LegCo, taking into account Mr Tommy CHEUNG's proposal. It should be noted that Mr Tommy CHEUNG's proposal

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did not introduce any increase in the number of registered medical practitioner members of the Medical Council. While any suggestions to change the composition of the Medical Council could be discussed by the Bills Committee, if formed by the House Committee, the view of the patient groups being consulted by the Administration was that they had reservation over the need to maintain an equal ratio between appointed members and elected members.

11. SFH further advised that at present, 24 out of the 28 members of the Medical Council were registered medical practitioner members, forming the majority of the membership. These 24 members included seven registered medical practitioners who were members of the Medical Association elected by its Council members, and seven registered medical practitioners who were elected by registered medical practitioners with full registration and limited registration. The remaining 10 registered medical practitioner members were nominated by specified person or bodies (i.e. two each nominated by the Director of Health, the University of Hong Kong ("HKU"), The Chinese University of Hong Kong ("CUHK"), the Hospital Authority ("HA") and the Hong Kong Academy of Medicine ("the Academy of Medicine") respectively). These nominees, who were of high professional standing, were all professionally independent to provide their views to the Medical Council. From the legal perspective, in the absence of exceptional circumstances, it was unlikely that CE might reasonably refuse to appoint the nominated persons.

12. Mr Tommy CHEUNG expressed appreciation for the Administration's efforts to take up his proposals and introduce the Bill within a short period of time. In his view, an increase in the number of registered medical practitioner members, if any, would likely give rise to the impression that the medical professionals were protecting the interest of each other.

13. Dr LEUNG Ka-lau pointed out that many members of the medical profession were concerned about the possible increase in Government control if the number of members appointed by CE to the Medical Council was greater than the number of elected members of the Medical Council. They were strongly of the view that the current 1:1 ratio between appointed members and elected members of the Medical Council should be maintained. He stressed that the 6+6 proposal was in line with the objective of the Bill to increase the proportion of lay membership in the Medical Council to 25%. To his understanding, no patient groups had expressly raised objection to the proposal. It should be noted that the proposal could also address the concern of some members of the medical profession that there would not be sufficient number of registered medical practitioner members for the Medical Council to establish more than one PIC as proposed in the Bill.

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14. SFH reiterated that those patient groups with which the Administration had met had indicated that they did not consider it necessary to maintain an equal ratio between appointed members and elected members in the Medical Council. They objected to any proposal which sought to increase the number of registered medical practitioner members in the Medical Council. SFH further advised that there was no cause for concern that there would be insufficient number of registered medical practitioner members for the Medical Council to establish more than one PIC after the passage of the Bill. It should also be noted that the number of registered medical practitioner assessors to be nominated by the Director of Health, HKU, CUHK, HA and the Academy of Medicine would be increased from two to four each upon the passage of the Bill. This, together with other relevant legislative proposals, would enable the Medical Council to conduct inquiry meetings more frequently.

15. Dr LEUNG Ka-lau expressed concern about the constitutionality of bills, if passed, which sought to amend the composition of membership of the governing bodies of professional organizations under existing legislation (i.e. the Medical Council and its committees as in the current case) in the light of Article 142 of the Basic Law. SFH affirmed that the legislative proposals were in conformity with the Basic Law.

Improving the complaint investigation and disciplinary inquiry mechanism of the Medical Council

16. Miss Alice MAK was concerned about the long time required by the Medical Council to handle the complaint cases at the pre-PIC stage (i.e. under initial consideration of the PIC chairman and deputy chairman) and PIC stage. She asked how the legislative proposals could improve the Medical Council's efficiency in complaint investigation. Mr CHAN Han-pan expressed a similar concern. Mr YIU Si-wing sought information about the average time required by the Medical Council to handle a complaint case. He considered that a target should be set in this regard to ensure the efficiency of the mechanism.

17. SFH advised that the legislative proposals such as enabling the Medical Council to establish more than one PIC and have more than one legal adviser; increasing the total number of assessors from 14 to 34; and enabling the Secretary for Justice to appoint any solicitor or counsel, which included a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87), to carry out the duties of the Secretary of the Medical Council to assist in a disciplinary inquiry would enable the Medical Council to conduct PIC and inquiry meetings more frequently and in parallel, and shorten the time it required to handle each complaint case. SFH explained that given the adversarial approach of the complaint investigation and disciplinary inquiry mechanism of the Medical Council, it was incumbent upon the Medical Council to take each step with due

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care. The time required for completing some steps, such as the seeking of patients' medical reports or records from the hospitals or clinics concerned, was beyond the control of the Medical Council. Miss Alice MAK asked whether the Administration would provide additional resources to the Medical Council Secretariat to strengthen the secretarial support in this regard. SFH replied in the positive.

18. Mr Albert HO enquired about the number of additional PICs that would be established upon the passage of the Bill. SFH advised that it would be for the Medical Council to decide. In response to Mr Tommy CHEUNG, SFH advised that there would be no restriction in the number of PICs operating in parallel upon the passage of the Bill. Mr Vincent FANG remarked that the Medical Council should establish as many additional PICs as practicable after the passage of the Bill in order to clear the existing backlog of complaint cases.

19. Noting the existing requirement that the quorum of a PIC meeting should at least include a lay member of the Medical Council and that the number of complaints received by the Medical Council each year could amount to more than 600 cases, Mr Albert HO was concerned about how the eight lay members (i.e. the four existing and the four additional lay members) could cope with the heavy workload of PIC. SFH advised that there was no cause for such concern, as two other legislative proposals put forth by the Administration were to increase the number of lay persons on PIC from one lay member of the Medical Council to two lay persons who might be a lay member of the Medical Council or a lay assessor; and increase the number of lay assessors from four to 14.

20. Mr YIU Si-wing asked whether a complainant aggrieved by an order made by the Medical Council in an inquiry could appeal against the decision. SFH advised that the complainant concerned could appeal to the Court of Appeal against that order.

Admission of non-locally trained doctors

21. Mr Vincent FANG expressed support to the legislative proposal of extending 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 in order to attract more experienced non-locally trained medical practitioners to practise in Hong Kong. He, however, was concerned about whether there would be adequate medical manpower to support the implementation of the 10-year public hospital development plan as announced in the 2016 Policy Address.

22. Mr WONG Ting-kwong called on the Administration to ensure that the applications for limited registration should be processed with prudence. Citing

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the policy of Singapore whereby overseas medical graduates holding qualifications recognized by the Singapore Medical Council were allowed to work in healthcare establishments under the supervision by a fully registered medical practitioner as an example, Mr CHAN Kin-por considered that the Administration should adopt a more vigorous approach to tap on the capacity of the non-locally trained medical practitioners. Mr Tommy CHEUNG opined that attracting the number of non-locally trained medical graduates to practise in Hong Kong through limited registration alone could not fully address the current medical manpower shortage problem. He considered that non-locally trained medical graduates should only be required to pass the examinations designed by the two local faculties of medicine for their students but not the Licensing Examination which was separately designed for non-locally trained medical practitioners.

23. SFH held reservation about allowing non-locally trained medical practitioners to practise in Hong Kong without requiring them to take the Licensing Examination, which was the statutory requirement under the Medical Registration Ordinance (Cap. 161). The Licensing Examination aimed to ensure that the professional standard of non-locally trained doctors would be comparable to that of local medical graduates to safeguard the quality of our medical services and our public health. The Medical Council would ensure that the standard of the Licensing Examination was consistent with that adopted by the two faculties of medicine in Hong Kong for assessing their medical graduates. At present, the standard of the Licensing Examination was set by HKU and CUHK. SFH further advised that the strategic review would make recommendations on, among others, how to meet the projected demand for medical professionals in the coming years. Based on the preliminary findings of the strategic review, the Administration had already increased the number of publicly-funded degree places in medicine from 420 to 470 for the 2016-2017 to 2018-2019 triennium. To facilitate more non-locally trained medical practitioners to practise in Hong Kong, the Medical Council had increased the frequency of the Licensing Examination from once to twice a year and introduced more flexibility to the relevant internship requirement. The above apart, HA had re-employed suitable retirees to help alleviate the current medical manpower shortage problem of HA.

24. Mr Albert CHAN remarked that while the principle of professional autonomy should be upheld, the Administration should address squarely the medical manpower shortage problem which had resulted in long waiting time for public hospital services and high level of charges by medical practitioners in private practise. He considered that the Administration should set a target as to how far the legislative proposals could help alleviate the medical manpower shortage problem.

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Conclusion

25. In closing, the Chairman drew members' attention that the Bill would be introduced into LegCo on 2 March 2016.

II. Any other business

26. There being no other business, the meeting ended at 4:22 pm.

Council Business Division 2
Legislative Council Secretariat
8 September 2016