

立法會
Legislative Council

LC Paper No. CB(2)754/18-19
(These minutes have been
seen by the Administration)

Ref : CB2/BC/5/16

Bills Committee on Medical Registration (Amendment) Bill 2017

Minutes of the seventh meeting
held on Monday, 13 November 2017, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

- Members present** :
- Hon Tommy CHEUNG Yu-yan, GBS, JP (Chairman)
 - Hon LEUNG Yiu-chung
 - Prof Hon Joseph LEE Kok-long, SBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon Michael TIEN Puk-sun, BBS, JP
 - Hon Steven HO Chun-yin, BBS
 - Hon WU Chi-wai, MH
 - Hon YIU Si-wing, BBS
 - Hon Kenneth LEUNG
 - Hon Alice MAK Mei-kuen, BBS, JP
 - Dr Hon KWOK Ka-ki
 - Hon KWOK Wai-keung, JP
 - Hon Dennis KWOK Wing-hang
 - Dr Hon Fernando CHEUNG Chiu-hung
 - Hon IP Kin-yuen
 - Dr Hon Elizabeth QUAT, BBS, JP
 - Hon Martin LIAO Cheung-kong, SBS, JP
 - Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
 - Hon CHU Hoi-dick
 - Hon Holden CHOW Ho-ding
 - Hon SHIU Ka-chun
 - Dr Hon Pierre CHAN
 - Hon CHAN Chun-ying
 - Hon CHEUNG Kwok-kwan, JP
 - Hon Jeremy TAM Man-ho
- Members absent** :
- Hon LAU Kwok-fan, MH (Deputy Chairman)
 - Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Hon Claudia MO
Hon Frankie YICK Chi-ming, SBS, JP
Hon CHAN Han-pan, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Dr Hon CHENG Chung-tai

Public Officers : Mr FONG Ngai
attending Head, Healthcare Planning and Development Office
Food and Health Bureau

Miss Natalie LAU Wai-kwan
Assistant Secretary for Food and Health (Health) 8
Food and Health Bureau

Miss Lisa LAI Yuk-wan
Secretary, Medical Council of Hong Kong
Department of Health

Mr Joseph SIU Wing-ho
Deputy Secretary (Medical Council) 1
Department of Health

Miss Cindy CHEUK Chi-wing
Senior Government Counsel
Department of Justice

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

Staff in : Ms Wendy KAN
attendance Assistant Legal Adviser 6

Ms Priscilla LAU
Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action
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I. Meeting with the Administration

[LC Paper Nos. CB(2)1723/16-17(02), CB(2)2098/16-17(03), CB(2)109/17-18(03), CB(2)152/17-18(01), CB(2)221/17-18(01), CB(2)274/17-18(01) to (03), CB(2)275/17-18(01) and CB(3)628/16-17]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Invitation of views

2. Members agreed that the Bills Committee should invite those organizations and individuals who had made oral representation on the Bill on 11 July 2017 to attend the next meeting of the Bills Committee scheduled for 27 November 2017 to give views on the Administration's revised proposal on the composition of the Medical Council of Hong Kong ("the Medical Council"), details of which were set out in LC Paper No. CB(2)109/17-18(03).

Amendments to the Bill

Admin

3. Members noted that the Administration would revise its draft amendments to the Bill to the effect that the proposed section 3(6) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance") would also cover the ex-officio members, and the proposed section 3(6A) of the Ordinance would cover any member of the Medical Council other than those described in the proposed section 3(6) of the Ordinance.

4. Dr KWOK Ka-ki indicated that in respect of the Administration's proposal to add two seats of registered medical practitioners who were Fellows of the Hong Kong Academy of Medicine ("the Academy of Medicine") being nominated and elected by Fellows of the Academy of Medicine in accordance with the Academy of Medicine's regulations or procedures in the composition of the Medical Council, he might consider proposing amendments to the Bill to the effect that both Fellows and Members of the Academy of Medicine would be entitled to vote in the election for the two seats.

Follow-up actions required of the Administration

Admin

5. The Bills Committee requested the Administration to:

(a) in respect of the proposed new section 3(5AA)(b) of the

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Ordinance, gauge and revert in writing on the views of the patient organizations on the proposed arrangement that when a vacancy occurred in the office of a lay member representing the interests of patients and the unexpired term of the office was less than one year, the Medical Council would be empowered to (i) decide whether a person nominated by any lay member of the Medical Council to fill the vacancy represented the interests of patients; and (ii) appoint the person to fill the vacancy based on such nomination; and

- (b) revert in writing on the Medical Council's stance on a member's view that the existing mechanism put in place by the Medical Council for handling conflict of interests in disciplinary inquiries might not be able to ensure that each and every complaint would be handled in a fair and impartial manner, with particular regard to the legislative proposal that the size of the pool of lay assessors and medical assessors, to be nominated by the nominating authorities set out in the proposed new Schedule 5 to the Ordinance, would be expanded significantly.

II. Any other business

6. The Chairman reminded members that the next meeting of the Bills Committee would be held on 27 November 2017 at 2:30 pm.

7. There being no other business, the meeting ended at 5:24 pm.

Council Business Division 2
Legislative Council Secretariat
1 February 2019

**Proceedings of the seventh meeting of
the Bills Committee on Medical Registration (Amendment) Bill 2017
held on Monday, 13 November 2017, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000943 - 001213	Chairman Dr KWOK Ka-ki	Opening remarks Members agreed that the Bills Committee would receive oral representation from deputations on the Administration's revised proposal on the composition of the Medical Council of Hong Kong ("the Medical Council") at its next meeting.	
001214 - 001559	Chairman Admin	Briefing by the Administration on its responses to the follow-up actions arising from the discussion at the meeting on 3 November 2017 [LC Paper No. CB(2)274/17-18(03)].	
001600 - 003409	Chairman Dr Pierre CHAN Admin Dr KWOK Ka-ki ALA6	<p>Dr Pierre CHAN's concern that the draft amendments to the Bill proposed by the Administration had not provided that the two ex-officio members of the Medical Council, being the Director of Health or his or her representative and the Chief Executive of the Hospital Authority ("HA") or his or her representative, had to be medical practitioners; and his view that no additional thresholds should be imposed on the nomination and election of the two registered medical practitioners who were Fellows of the Hong Kong Academy of Medicine ("the Academy of Medicine") being nominated and elected by Fellows of the Academy of Medicine in accordance with its regulations or procedures.</p> <p>Dr KWOK Ka-ki's strong view that the two ex-officio members, being the Director of Health or his or her representative and the Chief Executive of HA or his or her representative, had to be medical practitioners so as to achieve the policy intent as set out in paragraph 9 of LC Paper No. CB(2)109/17-18(03) that registered medical practitioner members would account for three-fourths of the membership of the Medical Council.</p> <p>The Administration's elaboration of its response as set out in paragraphs 6 to 10 in LC Paper No. CB(2)274/17-18(03); and its advice that it would be more appropriate for it to relay members' views to the Director of Health and the Chief Executive of HA that their representatives in the Medical Council should be registered medical practitioners as far as practicable.</p>	
003410 - 004354	Chairman Dr Pierre CHAN Admin ALA6	<p>In response to Dr Pierre CHAN's enquiries, the Administration advised that:</p> <p>(a) there was no precedent case where a member appointed by the Chief Executive, an elected member or a member appointed by the Medical Council was, in the opinion of the Chief Executive or the Medical Council (as the case might be), unable or unfit to perform his duties and exercise his</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>powers as a member that the Chief Executive or the Medical Council had to declare the member's office of membership of the Medical Council to be vacant under the existing section 3(6) and (6A) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance"); and</p> <p>(b) it would move amendments to the Bill to the effect that the proposed section 3(6) of the Ordinance would also cover the ex-officio members and the proposed section 3(6A) of the Ordinance would cover any member of the Medical Council other than those described in the proposed section 3(6) of the Ordinance.</p>	
004355 - 005547	<p>Chairman Mr YIU Si-wing Admin Dr KWOK Ka-ki</p>	<p>Mr YIU Si-wing's remark that the appointment of the Director of Health and the recruitment of the Chief Executive of HA should be based on capability and should not be restricted to whether the person concerned was a medical practitioner or not. There was no need to require that the two ex officio members of the Medical Council, being the Director of Health (or his or her representative) and the Chief Executive of HA (or his or her representative), had to be medical practitioners.</p> <p>Dr KWOK Ka-ki's view that the Director of Health or his or her representative and the Chief Executive of HA or his or her representative being medical practitioners would ensure that they had the professional knowledge to facilitate the operation of the Medical Council. He might consider moving amendments to the Bill in this regard. The Administration stressed that the appointment of the Director of Health and the recruitment of the Chief Executive of HA were made in accordance with the established mechanism.</p> <p>Referring to the tentative timetable of the Academy of Medicine for collecting views and formulating the regulations or procedures for nominating and electing two Fellows to fill the two proposed registered medical practitioner seats in the Medical Council who were Fellows of the Academy of Medicine being nominated and elected by Fellows of the Academy of Medicine ("the two proposed seats") as set out in paragraph 5 of LC Paper No. CB(2)274/17-18(03), Dr KWOK Ka-ki was concerned about how it could be ensured that no additional thresholds would be imposed by the Academy of Medicine on the nomination and election of the two proposed seats.</p>	
005548 - 010636	<p>Chairman Dr Fernando CHEUNG Admin</p>	<p>While expressing support for the Administration's revised proposal on the composition of the Medical Council which sought to maintain a proper proportion of elected registered medical practitioner members in the Medical Council, Dr Fernando CHEUNG considered it important to ensure that no additional thresholds would be imposed on the eligibility to stand for the election, and to nominate and to vote in the election for the two proposed seats. Reference should be made to the existing qualifications for nomination as a candidate in the election for the seven registered medical practitioner member seats to be</p>	

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		<p>elected by registered medical practitioners with full registration and limited registration.</p> <p>The Administration's advice that the two registered medical practitioners to be elected to fill the two proposed seats should be regarded as representatives of the Academy of Medicine. Having regard to the principle of professional autonomy, it was appropriate for the Academy of Medicine to decide the relevant nomination and election arrangements.</p>	
010637 - 011733	Chairman Dr Pierre CHAN Admin ALA6	<p>Dr Pierre CHAN considered it necessary to ensure that the number of registered medical practitioners in the Medical Council would account for a larger proportion of its membership to ensure that it could properly perform its role of maintaining the standards of the medical profession.</p> <p>In response to Dr Pierre CHAN's enquiry about the use of the expression "appointed by the Chief Executive" in the English text of the existing sections 3(2)(d) and 3(2)(da) and the proposed section 3(2)(h) of the Ordinance and the expression "to be appointed by the Chief Executive" in the English text of the existing section 3(2)(g) of the Ordinance, the Administration and the Legal Adviser to the Bills Committee confirmed that the two expressions had the same meaning.</p>	
011734 - 012906	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki remarked that the original proposal of the medical profession was to convert one of each of the two appointed seats to be nominated by HA and the Director of Health respectively for appointment by the Chief Executive to two elected seats for direct election by all registered medical practitioners. While the current proposal of having the two seats being filled by Fellows of the Academy of Medicine nominated and elected by Fellows of the Academy of Medicine was acceptable, he maintained the view that it was necessary to ensure that no additional thresholds would be imposed on the nomination and election of the two proposed seats.</p>	
012907 - 013719	Chairman Dr Pierre CHAN Admin	<p>Dr Pierre CHAN asked about the reason why section 4(2)(b) of the Medical Practitioners (Electoral Provisions) (Procedure) Regulation (Cap. 161B), which provided that a registered medical practitioner was disqualified from being nominated in an election or holding office under section 3(2)(j) of the Ordinance if he had been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment, was proposed to be repealed in the Bill.</p> <p>The Administration's advice that it took the opportunity to repeal the above provision in this legislative exercise as the Court of First Instance of the High Court had handed down its judgement in 2009 that the provision was inconsistent with Article 39 of the Basic Law.</p> <p>In response to Dr Pierre CHAN's enquiry, the Administration advised that no registered medical practitioner had so far been disqualified pursuant to the above provision.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
013720 - 014403	Chairman Dr Pierre CHAN Admin	Dr Pierre CHAN's concern about the rationale for requiring the Medical Council to, in the case where the unexpired term of the vacated office was less than one year, decide whether a person nominated by any lay member of the Medical Council to fill the vacancy represented the interests of patients and if so, appointed the person to fill the vacancy as provided for in the proposed new section 3(5AA)(b) of the Ordinance. The Administration undertook to gauge and revert to the Bills Committee on the views of the patient organizations on the proposed arrangement.	Admin
014404 - 015433	Chairman Dr KWOK Ka-ki Admin	Dr KWOK Ka-ki's view that different from the two registered medical practitioners nominated by the Academy of Medicine and appointed by the Chief Executive, the two registered medical practitioners who were Fellows of the Academy of Medicine being nominated and elected by Fellows of the Academy of Medicine should be held accountable to their voters.	
015434 - 020245	Chairman Dr Fernando CHEUNG Admin Dr Pierre CHAN	<p>In reply to Dr Fernando CHEUNG's enquiry, the Administration advised that the key proposed election arrangements for three persons representing patients' interests in the Medical Council had been set out in Annex D to the Legislative Council Brief ("LegCo Brief") [File Ref: FHCR1/F/3261/92]. Upon the passage of the Bill, a new piece of regulation subject to negative vetting of the Legislative Council would provide for the procedure and other matters in relation to an election or appointment of these three lay members ("the new regulation").</p> <p>On Dr Pierre CHAN's concern about whether the eligibility requirements for being an elector in these elections could ensure that all relevant patient organizations would be entitled to vote in the elections and prevent vote-rigging, the Administration advised that all patient organizations proved to the satisfaction of the Permanent Secretary for Food and Health (Health) ("the Permanent Secretary") that it met the requirements as specified in paragraph 1(a) to (d) in Annex D to the LegCo Brief, and any other entity recognized and accepted by the Permanent Secretary would also be eligible as an elector. Each elector would be entitled to three votes. The three candidates who obtained the greatest number of votes would be elected.</p>	
020246 - 021700	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's enquiry and the Administration's elaboration on the arrangement for the Chief Executive to appoint a temporary member of the Medical Council under the proposed section 3C of the Ordinance.</p> <p>On Dr KWOK Ka-ki's view that an appeal mechanism should be put in place to enable an organization to appeal against the decision of the Permanent Secretary on whether it met the eligibility requirements for an elector in an election for the three seats representing patients' interests in the Medical Council, the Administration advised that it would take into account the above view when drafting the new regulation.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Break</i>			
022155 - 023513	Chairman Dr Pierre CHAN Admin	<p>In response to Dr Pierre CHAN's enquiry about the timetable for introducing the new regulation, the Administration advised that it would introduce the new regulation as soon as practicable upon the passage of the Bill.</p> <p>On Dr Pierre CHAN's concern about how to ensure that the inquiries of the Medical Council would be conducted in a fair manner if some members of the Medical Council or assessors sitting for an inquiry had stated openly their stances on the professional conduct of the defendant registered medical practitioner, the Administration elaborated on the established mechanism of the Medical Council on handling conflict of interests and ensuring that each and every complaint was handled in a fair and impartial manner. It added that it was required under the Bill that a member of an inquiry panel who had an interest in the inquiry had to declare his or her interest.</p>	
023514 - 025142	Chairman Dr KWOK Ka-ki Admin ALA6	<p>Dr KWOK Ka-ki's remark that he might consider proposing amendments to the Bill such that Members of the Academy of Medicine would also be eligible to vote in an election of the two proposed seats.</p> <p>Dr KWOK Ka-ki's view that the existing mechanism put in place by the Medical Council for handling conflict of interests in disciplinary inquiries might not be able to ensure that each and every complaint would be handled in a fair and impartial manner, with particular regard to the legislative proposal that the size of the pool of lay assessors and medical assessors, to be nominated by the nominating authorities set out in the proposed new Schedule 5 to the Ordinance, would be expanded significantly; and his request for the Administration to revert in writing on the Medical Council's stance in this regard.</p>	Admin
025143 - 025720	Chairman Dr Pierre CHAN Admin	<p>Dr Pierre CHAN's elaboration on the requirement for Fellowship of the Academy of Medicine as specified in its Bylaws.</p> <p>In response to Dr Pierre CHAN's enquiry, the Administration advised that the Bill had provided for the term of office in respect of the person nominated by the Consumer Council to sit on the Medical Council and the arrangement for filling a vacancy occurred in the office.</p>	
<i>Agenda item II: Any other business</i>			
025721 - 025805	Chairman	Closing remarks	