

立法會
Legislative Council

LC Paper No. CB(2)801/18-19

(These minutes have been
seen by the Administration)

Ref : CB2/BC/5/16

Bills Committee on Medical Registration (Amendment) Bill 2017

Minutes of the tenth meeting
held on Monday, 29 January 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** :
- Hon Tommy CHEUNG Yu-yan, GBS, JP (Chairman)
 - Hon LAU Kwok-fan, MH (Deputy Chairman)
 - Hon Mrs Regina IP LAU Suk-ye, GBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon Claudia MO
 - Hon Michael TIEN Puk-sun, BBS, JP
 - Hon Steven HO Chun-yin, BBS
 - Hon Frankie YICK Chi-ming, SBS, JP
 - Hon YIU Si-wing, BBS
 - Dr Hon KWOK Ka-ki
 - 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-kwok, SBS, MH, JP
 - Hon HO Kai-ming
 - Hon Holden CHOW Ho-ding
 - Hon SHIU Ka-chun
 - Dr Hon Pierre CHAN
 - Hon CHAN Chun-ying
 - Dr Hon CHENG Chung-tai
 - Hon Jeremy TAM Man-ho
- Members absent** :
- Hon LEUNG Yiu-chung
 - Prof Hon Joseph LEE Kok-long, SBS, JP
 - Hon WU Chi-wai, MH
 - Hon CHAN Han-pan, JP

Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Dr Hon Helena WONG Pik-wan
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon CHEUNG Kwok-kwan, JP

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

Mr Chris FUNG Pan-chung
Principal Assistant Secretary for Food and Health
(Health) 3
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

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)221/17-18(01), CB(2)748/17-18(01) to (02), CB(2)755/17-18(01), CB(2)782/17-18(01) and CB(3)628/16-17]

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

Clause-by-clause examination of the Bill

2. The Bills Committee completed clause-by-clause examination of the Chinese text of the Bill.

Amendments to the Bill

3. The Bills Committee considered the first batch of draft amendments to the Bill to be proposed by the Administration as set out in LC Paper No. CB(2)755/17-18(01).

4. The Chairman invited members who intended to propose amendments to the Bill and wished their amendments to be considered by the Bills Committee to forward their amendments to the Secretariat as soon as practicable for the Bills Committee's consideration at the next meeting.

Follow-up actions required of the Administration

Admin

5. The Bills Committee requested the Administration to:

- (a) in respect of its proposal to add in the composition of the Medical Council of Hong Kong ("the Medical Council") 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, relay to the Academy of Medicine members' request for it to advise the Bills Committee the nomination and election arrangements mapped out by it in this regard and its views as to whether the arrangements should be provided for in the legislation; and

Action

- (b) in respect of the meetings of the Medical Council held for the purpose of an inquiry in accordance with the existing section 21 of the Medical Registration Ordinance (Cap. 161),
 - (i) provide information, if available, on the reasons for the low attendance rates of individual members of the Medical Council (except those who could not take part in disciplinary inquiries due to their other capacities as set out in the notes listed under item (a) in Annex B to LC Paper No. CB(2)748/17-18(02)) and individual assessors in inquiries in the past two years;
 - (ii) provide statistics on the number of inquiry meetings that had to be re-scheduled due to unavailability or non-attendance of members of the Medical Council or assessors; and
 - (iii) advise whether the unavailability or non-attendance of members of the Medical Council or assessors in inquiries had affected the Medical Council's efficiency in conducting disciplinary inquiries.

II. Any other business

6. Members agreed that the Bills Committee would hold its next meeting on 22 February 2018 from 8:45 am to 12:45 pm.

7. There being no other business, the meeting ended at 4:15 pm.

Council Business Division 2
Legislative Council Secretariat
15 February 2019

**Proceedings of the tenth meeting of
the Bills Committee on Medical Registration (Amendment) Bill 2017
held on Monday, 29 January 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
001502 - 001551	Chairman	Opening remarks	
001552 - 001626	Chairman Admin	Briefing by the Administration on its responses to the follow-up actions arising from the discussion at the meeting on 19 December 2017 [LC Paper No. CB(2)748/17-18(02)].	
001627 - 002601	Chairman Dr Pierre CHAN Admin Mr Jeremy TAM	<p>Dr Pierre CHAN's concern about the uneven distribution of caseloads of disciplinary inquiry among members of the Medical Council of Hong Kong ("the Medical Council") and assessors; and Mr Jeremy TAM's concern that, given the low attendance rates of certain members of the Medical Council and assessors in inquiries, the Medical Council's efficiency in conducting disciplinary inquiries might be affected.</p> <p>The Administration's elaboration of the arrangements for inquiries made by the Medical Council Secretariat as set out in paragraphs 2 to 4 of LC Paper No. CB(2)748/17-18(02), and its advice that the proposed expansion of the pool size of lay assessors and medical assessors under the Bill would facilitate the Medical Council Secretariat to arrange inquiries.</p> <p>Dr Pierre CHAN's view that the Medical Council Secretariat could consider making public the attendance of members of the Medical Council and assessors in inquiries; and Mr Jeremy TAM's suggestion that the specified persons and nominating authorities should in future consider the past attendance of their nominated representatives in inquiries when deciding whether the person concerned should be re-nominated.</p>	
002602 - 002819	Chairman Mrs Regina IP Admin	Against the information set out in Annex B to LC Paper No. CB(2)748/17-18(02) that the Director of Health did not take part in inquiries as she was the Registrar of Medical Practitioners who was responsible for maintaining the General Register and the Specialist Register and the attendance of the Deputy Director of Health in inquiries was also not high, Mrs Regina IP requested the Administration to provide information on the reasons for the low attendance rates of individual members of the Medical Council.	Admin
002820 - 003031	Chairman Dr CHENG Chung-tai Admin	Dr CHENG Chung-tai's request for the Administration to (a) provide statistics on the number of inquiry meetings that had to be re-scheduled due to unavailability or non-attendance of members of the Medical Council or assessors; and (b) advise whether the unavailability or non-attendance of members of the Medical Council or assessors in inquiries had affected the Medical Council's efficiency in conducting disciplinary inquiries.	Admin

Time marker	Speaker	Subject(s)/Discussion	Action required
003032 - 003609	Chairman Admin ALA6 Dr Pierre CHAN	<p>Continuation of clause-by-clause examination of the Bill</p> <p><u>Examination of clauses 35 to 41</u></p> <p>The Legal Adviser to the Bills Committee's remark that the Administration would propose amendment to replace "may" in the existing section 24(4)(a) of the Medical Practitioners (Electoral Provisions) (Procedure) Regulation (Cap. 161B) with "must" for consistency with the proposed section 3(9) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance").</p> <p>In response to the Legal Adviser to the Bills Committee and Dr Pierre CHAN's enquiry, the Administration advised that the publication of the result of an appointment made for the purpose of filling an office under the proposed section 3(5B)(b) of the Ordinance (i.e. the unexpired term was less than one year) would be made in the form of Government Notice in the Gazette.</p>	
003610 - 005444	Chairman Admin Dr Pierre CHAN Mrs Regina IP	<p><u>Examination of clauses 42 to 44</u></p> <p>Dr Pierre CHAN's enquiries concerning the future engagement of more than one legal adviser by the Medical Council and the additional funding that would be provided to the Medical Council in this regard upon the passage of the Bill.</p> <p>The Administration advised that if the Bill was passed, the Medical Council would work out how many legal advisers would be required based on the workload and the estimated number of disciplinary inquiries to be conducted each year. The Administration would provide additional resources to the Medical Council for engaging more than one legal adviser.</p> <p>In response to Mrs Regina IP, the Administration advised that the existing Legal Adviser to the Medical Council, who was a barrister, was engaged by the Medical Council on an hourly basis. The current rate of remuneration was \$2,000 per hour, subject to a monthly cap of \$280,000.</p> <p>Noting that the working hours of the Legal Adviser to the Medical Council amounted to about 140 hours per month which was close to a full-time post, Dr Pierre CHAN and Mrs Regina IP remarked that the Administration should consider changing the engagement to a full-time basis. Mrs Regina IP further urged the Administration to increase the remuneration rate for legal advisers upon the passage of the Bill in order to attract more qualified persons to assume the role of legal adviser.</p>	
005445 - 005614	Chairman Admin	<u>Examination of clauses 45 to 54</u>	
005615 - 010422	Chairman Admin Dr Pierre CHAN Mrs Regina IP ALA6	<p><u>Examination of clauses 55 to 62</u></p> <p>In response to Mrs Regina IP's enquiry concerning the declaration of interest by members of an inquiry panel under the proposed new section 13A of the Medical Practitioners</p>	

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		<p>(Registration and Disciplinary Procedure) Regulation (Cap. 161E) ("the Regulation"), the Administration advised that before the opening of an inquiry by an inquiry panel or at any stage of the inquiry, the chairperson and members who had personal or pecuniary interest, direct or indirect, were required to declare the interest. In addition, a number of administrative measures had already been put in place by the Medical Council to handle the conflict of interest.</p> <p>The Legal Adviser to the Bills Committee drew members' attention that under the proposed section 19(1) of the Regulation, at the discretion of an inquiry panel, an inquiry by the panel might be open to the public or partly open to the public and partly held in camera. In response, the Administration advised that the disciplinary inquiries carried out by the Medical Council so far were open to the public. Upon request, arrangements would be made to protect the identity of the witness.</p>	
010423 - 011553	Chairman Dr KWOK Ka-ki Admin	<p>Referring to the press release issued by the Hong Kong Academy of Medicine ("the Academy of Medicine") in January 2018 concerning the survey results on the nomination and election mechanisms of the two proposed seats of registered medical practitioners who were Fellows of the Academy of Medicine being nominated and elected by Fellows of the Academy of Medicine, Dr KWOK Ka-ki requested the Administration to relay to the Academy of Medicine some members' request for it to advise the Bills Committee on the details of the nomination and election arrangements.</p> <p>Dr KWOK Ka-ki shared the view made by some members at the earlier part of the meeting that the Medical Council should engage its legal adviser on a full-time basis.</p>	Admin
011554 - 012945	Chairman Dr Pierre CHAN Admin ALA6 Dr KWOK Ka-ki	<p>Dr Pierre CHAN's view that it was not clear what constituted interest which required members of inquiry panels to declare under the proposed section 13A of the Regulation; and his enquiry about the outcome if a declaration of interest was not made.</p> <p>Dr KWOK Ka-ki's view that due to the lack of clarity in this regard, members of inquiry panels would have difficulty in determining whether an interest, such as acquaintance with the defendant registered medical practitioner, should be declared. He requested the Administration and the Medical Council to formulate a clear guideline on the declaration of interest for inquiry panels as well as the committees formed under the Medical Council, namely Preliminary Investigation Committee, the Health Committee and the Education and Accreditation Committee.</p> <p>The Administration's advice that:</p> <p>(a) the Medical Council had an established mechanism and guidelines on handling conflict of interest. Its Standing Order No. 6 "Conflict of interests of members" spelt out</p>	

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		<p>clearly the circumstances under which declaration of interest and/or recusal from discussion would be required. This apart, section 7(1) and (2) of the Regulation required members of the Preliminary Investigation Committee to declare their interest upon receipt of a case. The Bill had provided for such requirements for inquiry panels;</p> <p>(b) the proposed section 13A of the Regulation required members of inquiry panels to make declaration of interest, if any, as soon as practicable after becoming so aware. Failure to observe the requirements by members would result in the inquiry being fraught with deficiencies. Decisions made by the inquiry panel might be subject to judicial review; and</p> <p>(c) the Medical Council had undertaken to review and consider how to further improve the mechanism on declaration of interest and handling conflicts of interests after the passage of the Bill.</p> <p>The Legal Adviser to the Bills Committee drew members' attention that the Medical Council was required under the proposed new section 13A(5) of the Regulation to appoint another inquiry panel to inquire into the case if a declaration of interest was made under that section.</p>	
012946 - 013104	Chairman Admin	<u>Examination of clauses 63 to 82</u>	
013105 - 013229	Chairman Dr Pierre CHAN	Date of next meeting	
013230 - 014805	Chairman Admin ALA6	Briefing by the Administration on its first batch of draft amendments to the Bill [LC Paper No. CB(2)755/17-18(01)].	
<i>Agenda item II: Any other business</i>			
014806 - 014820	Chairman	Closing remarks	