

**Medical Registration (Amendment) Bill 2017**

**Draft committee stage amendments proposed by the Government**

*(version as of 26 January 2018)*

The summary, draft wording of the committee stage amendments proposed by the Government and marked-up version of relevant sections of the Medical Registration Ordinance and its Regulations are at **Annex A**, **Annex B** and **Annex C** respectively.

**Food and Health Bureau**  
**January 2018**

**Proposed Committee Stage Amendments  
to the Medical Registration (Amendment) Bill 2017 (“the Bill”)**

	<b>Provisions to be amended</b>	<b>Brief description of the amendments</b>
1.	Clause 1(3) of the Bill – Short title and commencement	To amend “sections 4(25)” to “sections 4(27)” in relevant provision for the commencement date in response to Assistant Legal Adviser (ALA)’s comments (LC Paper No. CB(2)2098/16-17(03)) ( <i>Paragraph 3 of Schedule 1</i> )
2.	Clause 3 of the Bill – Section 2 of Part I of the Medical Registration Ordinance (Cap. 161) (“MRO”) (interpretation)	<p>To add definitions of “Fellow” (院士) and “Permanent Secretary”(常任秘書長)</p> <p>To update the reference of the definition of Secretary in response to ALA’s comments (<i>Paragraph 1 of Schedule 2</i>)</p>
3.	Clause 4 of the Bill – Section 3 of the MRO (establishment and composition of Council)	<p><b>Composition of the Medical Council of Hong Kong (MCHK)</b></p> <p>To amend the composition of MCHK and propose related amendments –</p> <ul style="list-style-type: none"><li>(a) The two seats nominated by the Hong Kong Academy of Medicine (HKAM) and appointed by the Chief Executive should remain;</li><li>(b) The number of seats nominated by the Department of Health (DH) and Hospital Authority (HA) should each be reduced by one, with these two seats converted to two members to be nominated and elected by Fellows of HKAM in accordance with the regulations or procedures of HKAM; and</li><li>(c) DH and HA should be represented by the Director of Health or his/her representative and the Chief Executive of HA or his/her representative, as ex officio member</li></ul> <p><b>Arrangements for filling vacancy of MCHK member(s) under section 3(2)(ga) of Cap. 161 i.e. patient MCHK member with unexpired term of the office for less than one year</b></p> <p>To revise that the appointment should be made by</p>

	<b>Provisions to be amended</b>	<b>Brief description of the amendments</b>
		the Permanent Secretary for Food and Health (Health) instead of MCHK, on the nomination of any lay member of MCHK
4.	Clause 6 of the Bill – Section 3C of the MRO (temporary members)	<p>For appointment of temporary patient MCHK member, to revise that the appointment should be made by the Permanent Secretary for Food and Health (Health) instead of MCHK</p> <p>To provide reference for appointed, nominated and elected members under section 3C of Cap. 161</p>
5.	Clause 7 of the Bill – Section 4 of the MRO (meetings of Council)	To add “nomination or election” in the relevant provision so as to ensure that the validity of the proceedings of MCHK will not be affected by any defect in the appointment, nomination or election of a member thereof in response to ALA’s comments ( <i>Paragraph 12 of Schedule 2</i> )
6.	Clause 13 of the Bill – Section 20BD of the MRO (general provisions applicable to assessors)	To propose a textual amendment by adding a comma after “bankrupt” in the English text in response to ALA’s comments ( <i>Paragraph 9 of Schedule 2</i> )
7.	Clause 18(4) of the Bill	To propose a textual amendment to the Chinese text from “Preliminary” to “Preliminary”
8.	Clause 22 of the Bill – Section 20X of the MRO (appointment of inquiry panel)	<p>To allow MCHK to appoint an inquiry panel if the Court of Appeal remits a case to MCHK for an inquiry</p> <p>To allow MCHK not to appoint another inquiry panel in the event of vacancy of member if the inquiry panel has already decided to make an order but the order has not yet been made in response to ALA’s comments (<i>Paragraph 19 of Schedule 1</i>)</p>
9.	Clause 23 of the Bill – Section 21 of the MRO (disciplinary powers of the Council)	<p>To enable inquiry panel to exercise disciplinary powers for case remitted by the Court of Appeal</p> <p>To allow MCHK not to appoint another inquiry panel in the event of vacancy of member for a review case if the inquiry panel has already made a determination but not yet announced the determination in response to ALA’s comments</p>

	Provisions to be amended	Brief description of the amendments
		<i>(Paragraph 19 of Schedule 1)</i>
10.	Clause 24 of the Bill – Section 21A of the MRO (powers of Council in relation to fitness to practice of medical practitioners)	To amend relevant provisions of section 21A of Cap.161 as section 21A(1)(c) and section 21A(1)(d) are mutually exclusive in response to ALA's comments <i>(Paragraph 21 of Schedule 1)</i>
11.	Clause 29 of the Bill – Section 25 of the MRO (orders of the Council)	To specify that the Registrar must serve the order of issuing a warning letter, together with the warning letter to the registered medical practitioner concerned in response to ALA's comments <i>(Paragraph 24 of Schedule 1)</i>
12.	Clause 30 of the Bill – Section 26 of the MRO (appeals against orders of the Council)	To rectify that section 26(6) is only applicable for condition described under section 26(1A)(b)(ii) in response to ALA's comments <i>(Paragraph 25 of Schedule 1)</i>
13.	Clause 31 of the Bill – Section 33(3A) of the MRO (regulations)	To propose subsequent amendment as a result of adding the definition of "Permanent Secretary"  To remove unnecessary wordings in section 33(4)(viii) in response to ALA's comments <i>(Paragraph 12 of Schedule 2)</i>
14.	Clause 34 of the Bill – Schedule 5 of the MRO (assessors)	To rectify the name of "The Hong Kong Medical Association" in response to ALA's comments <i>(Paragraph 13 of Schedule 2)</i>
15.	Clause 35 of the Bill – Section 4 of the Medical Practitioners (Electoral Provisions) (Procedure) Registration (Cap. 161 sub. leg. B) ("Cap.161B") (qualifications for nomination as a candidate and disqualification for election and holding office)	To amend reference from "3(2)(h)" to "3(2)(ha)" as a result of the proposed committee stage amendment (CSA) to section 4 of Cap. 161  To replace "composition" by "a composition or arrangement" in response to ALA's comments <i>(Paragraph 19 of Schedule 2)</i>
16.	Clause 35A of the Bill – Section 8 of Cap.161B (filling of casual vacancy where unexpired period is less than 1 year)	<b>Arrangements for filling vacancy of MCHK member(s) under section 3(2)(j) of Cap. 161 i.e. seven doctor members elected by all doctors with unexpired term of the office for less than one year</b>  To specify that MCHK members who are registered medical practitioners can make

	<b>Provisions to be amended</b>	<b>Brief description of the amendments</b>
		nomination for a replacement and make relevant amendments in response to ALA's comments ( <i>Paragraph 35 of Schedule 1</i> )
17.	Clause 39 of the Bill – Section 24 of Cap.161B (result of election and declaration of result)	To amend “may” to “must” for consistency sake in response to ALA's comments ( <i>Paragraph 34 of Schedule 1</i> )
18.	Clause 41 of the Bill – Schedule 1 of Cap.161B (form 2, Part II, paragraph 3)	To amend “and for” to “in an” for consistency sake in response to ALA's comments ( <i>Paragraph 20 of Schedule 2</i> )
19.	Clause 44 of the Bill – Section 8 of the Medical Registration (Miscellaneous Provisions) Registration (Cap. 161 sub. leg. D) (“Cap.161D”) (advice by legal adviser)	To provide for that section 8 of Cap. 161D be applicable for a meeting or inquiry mentioned in section 6(1) of Cap. 161D in response to ALA's comments ( <i>Paragraph 36 of Schedule 1</i> )
20.	Clause 51 of the Bill – Section 9 of the Medical Practitioners (Registration and Disciplinary Procedure) Registration (Cap. 161 sub. leg. E) (“Cap.161E”) (reference of case to Committee)	To provide for that section 9 of Cap. 161E be applicable for cases that the chairman or the deputy chairman of a preliminary investigation committee directed the case be investigated further under section 6(5) of Cap. 161E in response to ALA's comments ( <i>Paragraph 37 of Schedule 1</i> )
21.	Clause 54 of the Bill – Section 13 of Cap.161E (referral of case to Council for inquiry)	To specify that the Secretary of MCHK to serve on the defendant the notice of inquiry at least within two months after a direction by the chairperson of the inquiry panel in response to ALA's comments ( <i>Paragraph 38 of Schedule 1</i> )
22.	Clause 55 of the Bill – Section 13A of Cap.161E (declaration of interest by members of inquiry panel)	To specify the types of inquiries where declaration of interest is required in response to ALA's comments ( <i>Paragraph 39 of Schedule 1</i> )
23.	Clause 63 of the Bill – Section 21 of Cap.161E (representation)	To amend that the Secretary of Justice may appoint a solicitor or counsel, or a legal officer within the meaning of the Legal Officers Ordinance (Cap.87), to carry out the duties of the Secretary of MCHK in respect of an inquiry by the inquiry panel in response to ALA's comments ( <i>Paragraph 42 of Schedule 1</i> )

	<b>Provisions to be amended</b>	<b>Brief description of the amendments</b>
24.	Clause 74 of the Bill – Section 32 of Cap.161E (voting)	To repeal section 21(3) of Cap. 161E concerning equal vote in inquiry panel in response to ALA’s comments ( <i>Paragraph 43 of Schedule 1</i> )
25.	Clause 76 of the Bill – Section 34 of Cap.161E (review by Council)	To specify that specified persons can be invited to be present in the review by inquiry panel in response to ALA’s comments ( <i>Paragraphs 45 and 46 of Schedule 1</i> )
26.	Clause 78 of the Bill – Section 37 of Cap.161E (order of procedure of Health Committee)	To remove reference to “deputy chairman” from section 21 of Cap. 161E in response to ALA’s comments ( <i>Paragraph 47 of Schedule 1</i> )
27.	<p>Clause 80 of the Bill – Section 39 of Cap.161E (direction for further hearing by Health Committee)</p> <p>Clause 81 of the Bill – Section 40 of Cap.161E (notice of further hearing)</p> <p>Clause 82 of the Bill – Section 41 of Cap.161E (further medical examination)</p>	To remove irrelevant reference to “section 21 order” in section 39 of Cap. 161E and retain the relevant sections 40(1) and 41(1) of Cap. 161E in response to ALA’s comments ( <i>Paragraph 48 of Schedule 1</i> )

Medical Registration (Amendment) Bill 2017

**Committee Stage**

Amendments to be moved by the Secretary for Food and Health

(version as of 26 January 2018)

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)	In paragraph (b), by deleting “sections 4(25)” and substituting “sections 4(27)”.
3(2)	By adding in alphabetical order— “ <b>Fellow</b> (院士) has the meaning given by section 2 of the Hong Kong Academy of Medicine Ordinance (Cap. 419); <b>Permanent Secretary</b> (常任秘書長) means the Permanent Secretary for Food and Health (Health);”.
3	By adding— “(3) Section 2(1), definition of <b>Secretary</b> — <b>Repeal</b> “section 3B” <b>Substitute</b> “section 3B(1)”.”.
4	By adding— “(1A) Section 3(2)— <b>Repeal paragraph (c)</b> <b>Substitute</b> “(c) the Director, or his or her representative, as ex officio member ( <i>ex officio member</i> );”.

(1B) Section 3(2)—

**Repeal paragraph (db)**

**Substitute**

“(db) the Chief Executive of the Hospital Authority, or his or her representative, as ex officio member;”. ”.

4 By deleting subclause (4).

4 By adding—

“(4A) After section 3(2)(h)—

**Add**

“(ha) 2 registered medical practitioners who are Fellows nominated and elected by Fellows in accordance with the regulations or procedures of the Academy of Medicine;”. ”.

4 By deleting subclause (6) and substituting—

“(6) Section 3(3)—

**Repeal**

“(c), (d), (da), (g) or (h) shall hold office for a period of”

**Substitute**

“(d), (da), (g) or (h) holds office for”. ”.

4(7) In the proposed section 3(3AA), by adding “or (ha)” after “subsection (2)(ga)”.

4(8) By deleting the proposed section 3(3AAC).

4(9) In the proposed section 3(3A), by deleting “or elected to fill a vacancy caused by a person ceasing to be a member in accordance with subsection (4) or (6A)”.

4(9) In the proposed section 3(3AB), by deleting “(2)(h)” and substituting “(2)(ha)”.

4 By adding—

“(10A) Section 3(4), after “Council”—



**Add**

“who is not an ex officio member”.”.

4(11) In the proposed section 3(5AA)(b), by deleting “Council must, as soon as possible, on the nomination of any lay member of the Council, appoint a person who, in its opinion” and substituting “Permanent Secretary must, as soon as possible, on the nomination by any lay member of the Council, appoint a person who, in the opinion of the Permanent Secretary”.

4(11) By adding—  
“(5AAB) A member elected or appointed to fill a vacancy under subsection (5AA) holds office from the date of election or appointment until the end of the unexpired term.”

4(12) By deleting the proposed section 3(5AAB).

4(12) In the proposed section 3(5AAE), by deleting “(2)(h)” and substituting “(2)(ha)”.

4 By deleting subclause (17) and substituting—  
“(17) Section 3(5B)(b)—

**Repeal**

“of any member of the Council”

**Substitute**

“by any member of the Council who is a registered medical practitioner”.”.

4 By adding—  
“(19A) Section 3(6), after “by the Chief Executive”—

**Add**

“or any ex officio member”.”.

4(22) By deleting “appointed by the Chief Executive” and substituting “described in subsection (6)”.

4(27) In the proposed section 3(9), by deleting “(h) or (i)” and substituting “(ha), (i) or (j)”.

6

By adding—

“(1A) After section 3C(1)—

**Add**

“(1AA) If any member of the Council described in section 3(2)(ga) is, because of illness, absence from Hong Kong or any other reason, unable to perform the member’s duties and exercise the member’s powers for any period, the Permanent Secretary may appoint another person who is suitably qualified for appointment under section 3(2) (not being one who is disqualified from holding office under section 3 or who has been removed from office under that section) to be a temporary member of the Council in the place of the member during that period.”.

6

By deleting subclause (2) and substituting—

“(2) Section 3C(1A)—

**Repeal**

everything after “If any” and before “for any”

**Substitute**

“member of the Council described in section 3(2)(gb), (ha), (i) or (j) is, because of illness, absence from Hong Kong or any other reason, unable to perform the member’s duties and exercise the member’s powers”.

6

By adding—

“(3) After section 3C(1A)—

**Add**

“(1B) In subsections (1), (1AA) and (1A), a reference to any member of the Council includes a person who is appointed, nominated or elected under section 3 to fill a vacancy in the office of the Council.”.

7

By adding—

“(1A) Section 4(3), after “appointment”—

**Add**

“, nomination or election”.

- 13 In the English text, in the proposed section 20BD(3)(c), by adding a comma after “bankrupt”.
- 18(4) In the Chinese text, by deleting “Preliminary” and substituting “Preliminary”.
- 22 In the proposed section 20X, by deleting subsection (1) and substituting—  
“(1) The Council must appoint an inquiry panel for the inquiry of a case if—  
(a) the Council receives a notification under section 20T(2A) informing the Council of a Preliminary Investigation Committee’s decision to refer the case to an inquiry panel; or  
(b) the Court of Appeal remits the case to the Council under that section 26(1A)(b)(ii).”.
- 22 In the proposed section 20X(5), by deleting everything after “subsection—” and substituting—  
(a) the inquiry panel has decided to make an order referred to in section 21(1); but  
(b) the order has not yet been issued.”.
- 23(2) By adding “or any case remitted by the Court of Appeal,” after “section 33,”.
- 23(30) By deleting “.” and substituting—  
“(4CB) Subsection (4CA) does not apply if, when the vacancy occurs because of the circumstances mentioned in that subsection, the inquiry panel—  
(a) has made a determination under subsection (4D)(a); but  
(b) has not yet announced the determination under subsection (4D)(b).”.
- 23 By deleting subclause (31) and substituting—  
“(31) Section 21—

**Repeal subsection (4D)**

**Substitute**

“(4D) On a review by an inquiry panel under subsection (4B), the panel must—

“(a) make a determination as to any decision or order made in the inquiry by affirming, varying or revoking it; and

(b) announce the determination.”.”.

24(2) By deleting “, (b) and (c)” and substituting “and (b)”.

24 By adding—

“(3) Section 21A(1)—

**Repeal paragraph (c)**

**Substitute**

“(c) make an order referred to in paragraph (a) or (b) but suspend its application, subject to such conditions as the Council thinks appropriate, for a period, or periods in the aggregate, not exceeding 3 years;”.

(4) Section 21A(1)(d)—

**Repeal**

“any such order as aforesaid and further order that such”

**Substitute**

“an order referred to in paragraph (a) or (b) and further order that the”.

(5) Section 21A(3)—

**Repeal**

“, (b) or (c)”

**Substitute**

“or (b)”.”.

29 By deleting subclause (2) and substituting—

“(2) Section 25—

**Repeal subsection (1A)**

**Substitute**

“(1A) If an inquiry panel makes an order under section 21(1)(v), the Registrar must immediately serve the order , together with the warning letter, on the registered medical practitioner concerned, either personally or by registered post addressed to the practitioner’s registered address.”.”.

30 By adding—

“(5A) Section 26(3), proviso, after “25(1)” —

**Add**

“or (1A)”.”.

30 In the proposed section 26(6), by deleting “(1A)(b)” and substituting “(1A)(b)(ii)”.

31(3) In the proposed section 33(3A), by deleting “for Food and Health (Heath)”.

31 By deleting subclause (7) and substituting—

“(7) Section 33(4)(a)—

**Repeal subparagraph (viii)**

**Substitute**

“(viii) inquiries held by the Council or an inquiry panel;”.”.

34 In the English text, in the proposed Schedule 5, in Table 2, Column 2, item 6, by deleting “Hong Kong” and substituting “The Hong Kong”.

35(3) By deleting “(3)(2)(h)” and substituting “(3)(2)(ha)”.

35 By deleting subclause (4) and substituting—

“(4) Section 4(2)(d)—

**Repeal**

“composition”

**Substitute**

“a composition or arrangement”.”.

New

By adding before clause 36—

**“35A. Section 8 amended (filling of casual vacancy where unexpired period is less than 1 year)**

(1) Section 8(1), after “members of the Council”—

**Add**

“who are registered medical practitioners”.

(2) Section 8(2)(b), after “Council”—

**Add**

“who are registered medical practitioners”.

(3) Section 8(4), after “members of the Council”—

**Add**

“who are registered medical practitioners”.”.

39

(a) By renumbering the clause as subclause (1).

(b) By adding—

“(2) Section 24(4)—

**Repeal**

“may”

**Substitute**

“must”.”.

41

(a) By renumbering the clause as subclause (2).

(b) By adding—

“(1) Schedule 1, Form 2, Part II, paragraph 2—

**Repeal**

“and for”

**Substitute**

“in an”.”.

44(2)

In the proposed section 8(1), by deleting paragraph (a) and substituting—

“(a) at a meeting or an inquiry mentioned in section 6(1);”.

51

By deleting the clause and substituting—

**“51. Section 9 amended (reference of case to Committee)**

(1) Section 9—

**Repeal subsection (1)**

**Substitute**

“(1) Except where section 10 or 16(1A) applies, the chairman or the deputy chairman of a Committee who receives a case under section 6 must make the directions specified in subsection (1A) if—

- (a) the case has not been dismissed under section 6(3);
- (b) the case has not been referred to the Health Committee under section 6(4); or
- (c) he or she has directed that the case be investigated further under section 6(5).

(1A) The directions specified for subsection (1) are—

- (a) that the case must be referred to the Committee for its consideration; and
- (b) that the Secretary must fix a date on which it is proposed that the Committee meets to consider the case.”.”.

54 By adding—

“(3A) Section 13(4)—

**Repeal**

“of the receipt of a notification under subsection (1)”

**Substitute**

“after a direction by the chairperson of the panel under subsection (2)”.”.

55 In the proposed section 13A(1), by adding before paragraph (a)—

“(aa) holds an inquiry under section 21 of the Ordinance;”.

55 In the proposed section 13A, by adding—

“(3A) Subsections (2) and (3) have effect in relation to a review under section 21(4B) of the Ordinance as if the references to inquiry in those subsections were references to review.”.

55 In the proposed section 13A(4), by deleting “the case” and substituting “or review the decision or order, as the case may be”.

63 In the proposed section 21(2), by deleting “including” and substituting “or”.

74 By deleting subclause (5) and substituting—  
“(5) Section 32—  
**Repeal subsection (3).”.**

76 By repealing the clause and substituting—  
**“76. Section 34 substituted (review by Council)**  
Section 34—  
**Repeal the section**  
**Substitute**

**“34. Review by inquiry panel**

- (1) If, after an inquiry under section 21 of the Ordinance, an inquiry panel has decided to—
  - (a) review its decision or order under section 21(4B) of the Ordinance; and
  - (b) invite any specified person to attend the review under section 21(4C) of the Ordinance,  
the chairperson of the panel must direct the Secretary to notify the specified person in writing and invite the specified person to appear before the panel at the time and place fixed for holding the review.
- (2) At the review, the inquiry panel may invite a specified person to address the panel in the order it thinks appropriate.
- (3) The inquiry panel may proceed with the review in the absence of any specified person.
- (4) After the review, the chairperson of the panel must—



- (a) announce the panel’s latest decision in writing; and
- (b) direct the Secretary to—
  - (i) serve a notice of the decision on the defendant; and
  - (ii) notify the complainant of the panel’s decision.
- (5) The Secretary must comply with a direction given under subsection (1) or (4).
- (6) In this section—  
*specified person* ( ) means—
  - (a) a party to an inquiry under section 21 of the Ordinance; or
  - (b) any other person who has appeared before an inquiry panel in the inquiry.”.”.

78 By adding—

“(8A) Section 37(6)—

**Repeal**

“, the deputy chairman”.”.

80 By deleting subclause (2).

80(3) In the proposed section 39(3), by deleting the definition of *section 21 order*.

81 By deleting the clause.

82 By deleting the clause.

**Medical Registration (Amendment) Bill 2017**  
**Committee Stage**  
**Amendments to be moved by the Secretary for Food and Health**

**Marked-up version of relevant clauses**

*(version as of 26 January 2018)*

**Clause 1 of the Bill**

**1. Short title and commencement**

- (3) The following provisions come into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette—
- (a) section 4(2), (7) and (11);
  - (b) ~~sections 4(25)~~ **sections 4(27)** and 7 (in so far as they relate to section 3(2)(ga) of the Medical Registration Ordinance (Cap. 161) as added by section 4(2));

**Clause 3 of the Bill – Section 2 of Part I of the Medical Registration Ordinance (Cap. 161) amended (interpretation)**

Section:	2	Interpretation	10 of 2005	08/07/2005
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"**Fellow**" (院士) has the meaning given by section 2 of the Hong Kong Academy of Medicine Ordinance (Cap. 419);

"**Permanent Secretary**" (常任秘書長) means the Permanent Secretary for Food and Health (Health);

"Secretary" (秘書) means the Secretary of the Council appointed under ~~section 3B~~ **section 3B(1)**;

**Clause 4 of the Bill – Section 3 of the Medical Registration Ordinance (Cap. 161) amended (establishment and composition of Council)**

Section:	3	Establishment and composition of Council	37 of 2000	01/07/1997
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(1) There shall be established within Hong Kong a Council to be called the Medical Council of Hong Kong. (Amended 25 of 1984 s. 10)

(2) The Council ~~shall consist of~~ **is to consist of the following members-**

(a)-(b) (Repealed 7 of 1996 s. 3)

~~(c) 2 registered medical practitioners to be nominated by the Director and appointed by the Chief Executive/ (Amended 25 of 1984 s. 10);~~

(c) **the Director, or his or her representative, as ex officio member (*ex officio member*);**

(d) **2 registered medical practitioners nominated by the University of Hong Kong and appointed by the Chief Executive; (Amended 63 of 1982 s. 3)**

(da) **2 registered medical practitioners nominated by The Chinese University of Hong Kong and appointed by the Chief Executive; (Added 63 of 1982 s. 3)**

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

*Revisions made in green are amendments proposed by the Government's draft Committee Stage Amendments*

- ~~(db) 2 registered medical practitioners to be nominated by the Hospital Authority and appointed by the Chief Executive;— (Added 68 of 1990 s. 24)~~
- (db) the Chief Executive of the Hospital Authority, or his or her representative, as ex officio member;
- (e)-(f) (Repealed 7 of 1996 s. 3)
- (g) 4 lay members to be appointed by the Chief Executive; (Added 3 of 1988 s. 3)
- (ga) 3 lay members elected under the Patient Organizations Election Regulation by patient organizations;
- (gb) 1 lay member nominated by the Consumer Council;
- (h) 2 registered medical practitioners nominated by the Academy of Medicine and appointed by the Chief Executive; ~~elected by the Academy of Medicine in accordance with its regulations or procedures;~~
- (ha) 2 registered medical practitioners who are Fellows nominated and elected by Fellows in accordance with the regulations or procedures of the Academy of Medicine;
- (i) 7 registered medical practitioners who are members of the Hong Kong Medical Association and nominated in accordance with the regulations or procedures of the Association relating to the filling of offices under this paragraph and elected by the Council members of the Association in accordance with those regulations or procedures; (Added 7 of 1996 s. 3)
- (j) 7 registered medical practitioners registered in Part I of the General Register and ordinarily resident in Hong Kong elected by all registered medical practitioners registered in Parts I and III of the General Register pursuant to an election held under the Medical Practitioners Election Regulation. (Added 7 of 1996 s. 3)

(Replaced 14 of 1960 s. 2. Amended 37 of 2000 s. 3)

(3) Subject to subsections (4) and (6), a member of the Council appointed under subsection (2) ~~(e), (d), (da), (g) or (h) shall hold office for a period of, (db) or (g) holds office for~~ (d), (da), (g) or (h) holds office for 3 years from the date of his appointment and, at the expiry of his period of appointment or of any period for which he is reappointed, shall be eligible for reappointment for further periods of 3 years each. (Amended 63 of 1982 s. 3; 3 of 1988 s. 3)

(3AA) Subject to subsections (4) and (6A), a member described in subsection (2)(ga) or (ha)—

- (a) holds office for 3 years from the date of notification in the Gazette of the member's election; and
- (b) is eligible for re-election.

(3AAB) Subject to subsections (4) and (6A), a member described in subsection (2)(gb)—

- (a) holds office for 3 years from the date of notification in the Gazette of the member's nomination; and
- (b) is eligible for re-nomination.

~~(3AAC) Subject to subsections (4) and (6A), a member described in subsection (2)(ha)—~~

- ~~(a) holds office for 3 years from the date of notification in the Gazette of the member's election; and~~
- ~~(b) is eligible for re-election.~~

~~(3A) Subject to subsections (4) to (6), a member elected under subsection (2)(i) or (j), other than the first 14 members elected under subsection (2)(i) and (j) and a member elected to fill a vacancy caused by an elected member ceasing to be a member in accordance with subsection (4), (6) or (6A), shall hold office for 3 years from the date of notification in the Gazette of his having been elected, and shall be eligible for re-election.— (Added 7 of 1996 s. 3)~~

*Note:*

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(3A) Subject to subsections (4) and (6A), a member described in subsection (2)(i) or (j), other than a member described in subsection (5C) or (5D) ~~or elected to fill a vacancy caused by a person ceasing to be a member in accordance with subsection (4) or (6A) —~~

(a) holds office for 3 years from the date of notification in the Gazette of the member's election; and

(b) is eligible for re-election.

(3AB) Subject to subsection (5AAE), the Academy of Medicine must, within 3 months before the term of office of a member described in subsection ~~(2)(h)~~(2)(ha) expires, conduct an election in accordance with its regulations or procedures to elect a person to succeed that member.

(3B) Subject to subsection (5A), the Hong Kong Medical Association shall, within 3 months before the ~~expiry of the period of office of a member of the Council holding office under subsection (2)(i)~~ term of office of a member described in subsection (2)(i) expires, conduct an election to elect a person qualified under subsection (2)(i) to succeed that member. (Added 7 of 1996 s. 3)

(4) Any member of the Council ~~who is not an ex officio member~~ may at any time resign by giving notice in writing to the Chairman.

(5) Where, before the expiry of the period of his appointment, any member of the Council appointed by the Chief Executive resigns or his office becomes vacant, the Chief Executive may appoint a person who is suitably qualified for appointment under subsection (2) to hold office in place of that member until the expiry of the period for which he was appointed. (Amended 37 of 2000 s. 3)

(5AA) If, before the term of office of a member described in subsection (2)(ga) expires, the member resigns or the office otherwise becomes vacant, and—

(a) the unexpired term of the office is not less than one year when the vacancy arises, an election under the Patient Organizations Election Regulation must be conducted to fill the vacancy; or

(b) the unexpired term of the office is less than one year when the vacancy arises, the ~~Council must, as soon as possible, on the nomination of any lay member of the Council, appoint a person who, in its opinion~~ Permanent Secretary must, as soon as possible, on the nomination by any lay member of the Council, appoint a person who, in the opinion of the Permanent Secretary represents the interests of patients to fill the vacancy.

(5AAB) A member elected or appointed to fill a vacancy under subsection (5AA) holds office from the date of election or appointment until the end of the unexpired term.

(5AAC) If, before the term of office of a member described in subsection (2)(gb) expires, the member resigns or the office otherwise becomes vacant, the Consumer Council must, as soon as possible, nominate a person to fill the vacancy.

(5AAD) A member nominated to fill a vacancy under subsection (5AAC) holds office from the date of nomination until the end of the unexpired term.

(5AAE) If, before the term of office of a member described in subsection ~~(2)(h)~~(2)(ha) expires, the member resigns or the office otherwise becomes vacant, the Academy of Medicine must, as soon as possible, conduct an election in accordance with its regulations or procedures to fill the vacancy.

(5AAF) A member elected to fill a vacancy under subsection (5AAE) holds office from the date of election until the end of the unexpired term.

(5A) Where, before the ~~expiry of the office of a member holding office under subsection (2)(i)~~ term of office of a member described in subsection (2)(i) expires, the member resigns or his office becomes vacant, the Hong Kong Medical Association shall, as soon as possible, conduct an election to elect a person qualified under subsection (2)(i) to fill that vacancy, and the member elected to fill the vacancy shall hold office from the date of election until the ~~expiry of the original term of office of the person whom he succeeds~~ end of the unexpired term. (Added 7 of 1996 s. 3)

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(5B) Where, before the ~~expiry of the period of office of a member holding office under subsection (2)(j)~~ term of office of a member described in subsection (2)(j) expires, the member resigns or his office becomes vacant, and-

- (a) if the unexpired period of his office at the time the vacancy arises is not less than 1 year, an election under the ~~Election Regulation shall be conducted for the purpose of filling that vacancy;~~ Medical Practitioners Election Regulation must be conducted to fill the vacancy; or;
- (b) if the unexpired period of his office at the time the vacancy arises is less than 1 year, the Council shall, as soon as possible, on the nomination ~~of any member of the Council~~ by any member of the Council who is a registered medical practitioner, appoint a registered medical practitioner whom the Council considers appropriate to fill that vacancy,

and the member so elected or appointed to fill the vacancy shall hold office from the date of election or appointment, as the case may be, until the ~~expiry of the original term of office of the person whom he succeeds~~ end of the unexpired term. (Added 7 of 1996 s. 3)

(5C) Of the first 7 members elected to hold office under subsection (2)(i)-

- (a) 3 shall hold office for 3 years;
- (b) 2 shall hold office for 2 years; and
- (c) 2 shall hold office for 1 year,

all from the date of notification in the Gazette of their having been elected and the Council of the Hong Kong Medical Association shall, in its absolute discretion, determine the respective term of office of each such elected member in accordance with this subsection. (Added 7 of 1996 s. 3)

(5D) Of the first 7 members elected to hold office under subsection (2)(j)-

- (a) 3 shall hold office for 3 years;
- (b) 2 shall hold office for 2 years; and
- (c) 2 shall hold office for 1 year,

all from the date of notification in the Gazette of their having been elected, and the respective term of office of each such member shall be determined in accordance with the ~~Medical Practitioners Election Regulation~~. (Added 7 of 1996 s. 3)

(6) If any member appointed by the Chief Executive ~~or any ex officio member~~ -

- (a) is sentenced to a term of imprisonment for any offence;
- (b) is the subject of an order made under section 21 or 21A;
- (c) becomes bankrupt or ~~makes an arrangement with his creditors~~ enters into a composition or arrangement with his or her creditors without paying them in full;
- (d) is found by the Health Committee after due hearing to be incapacitated from carrying out the duties of his office by reason of physical or mental illness;
- (e) is no longer ordinarily resident in Hong Kong; or
- (f) is, in the opinion of the Chief Executive, unable or unfit to perform his duties and exercise his powers as a member of the Council,

the Chief Executive may declare the member's office of membership of the Council to be vacant. (Amended 37 of 2000 s. 3)

~~(6A) If an elected member or any member appointed by the Council~~ a member of the Council, other than a member ~~appointed by the Chief Executive~~ described in subsection (6)-

- (a) is sentenced to a term of imprisonment for any offence;
- (b) is the subject of an order made under section 21 or 21A;
- (c) becomes bankrupt or ~~makes an arrangement with his creditors~~ enters into a composition or arrangement with his or her creditors without paying them in full;
- (d) is found by the Health Committee after due hearing to be incapacitated from carrying out the duties of his office by reason of physical or mental illness;

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(e) is no longer ordinarily resident in Hong Kong; or  
 (f) is, in the opinion of the Council, unable or unfit to perform his duties and exercise his powers as a member of the Council,  
 the Council may declare the member's office of membership of the Council to be vacant.  
 (Added 7 of 1996 s. 3)

- (7) Notwithstanding anything in this section, a person-
- (a) against whom an order under section 21 has at any time been made; or
  - (b) who is-
    - (i) undergoing a sentence of imprisonment;
    - (ii) detained in a mental hospital; or
    - (iii) an undischarged bankrupt,

~~shall not be eligible for~~ ~~is not eligible for nomination, re-nomination,~~ appointment, reappointment, election or re-election, as the case may be, as a member of the Council.

~~(8) In this section, "Election Regulation" (選舉規例) means the regulation made under section 33(4)(b). (Added 7 of 1996 s. 3)~~

(Amended 70 of 1975 s. 3; 7 of 1996 s. 3)

(9) After a person is elected or nominated to hold office under subsection (2)(ga), (gb), ~~(h) or (i)~~ (ha), (i) or (j), the Secretary must publish a notification in the Gazette of the person's election or nomination.

**Clause 6 of the Bill – Section 3C of the Medical Registration Ordinance (Cap. 161) amended (temporary members)**

Section:	3C	Temporary members	37 of 2000	01/07/1997
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(1) If any member of the Council appointed by the Chief Executive is, because of illness, absence from Hong Kong or any other reason, unable to perform ~~his duties and exercise his powers as a member of the Council~~ the member's duties and exercise the member's powers for any period, the Chief Executive may appoint another person who is suitably qualified for appointment under section 3(2) (not being one who is disqualified from holding office under section 3 or who has been removed from office under that section) to be a temporary member of the Council in the place of the member during that period. (Amended 7 of 1996 s. 5; 37 of 2000 s. 3)

(1AA) If any member of the Council described in section 3(2)(ga) is, because of illness, absence from Hong Kong or any other reason, unable to perform the member's duties and exercise the member's powers for any period, the Permanent Secretary may appoint another person who is suitably qualified for appointment under section 3(2) (not being one who is disqualified from holding office under section 3 or who has been removed from office under that section) to be a temporary member of the Council in the place of the member during that period.

(1A) If any member of the Council described in section 3(2)(gb), (ha), (i) or (j) is, because of illness, absence from Hong Kong or any other reason, unable to perform the member's duties and exercise the member's powers ~~elected member of the Council or elected member of the Council or any member appointed by the Council under section 3 is, because of illness, absence from Hong Kong or any other reason, unable to perform his duties and exercise his powers as a member of the Council~~ member of the Council who is not appointed by the Chief Executive is, because of illness, absence from Hong Kong or any other reason, unable to perform the member's duties and exercise the member's powers for any period, the Council may appoint another person who is suitably qualified for appointment under section 3(2) (not being one who is disqualified from holding office under section 3 or who has been removed from office under that section) to be a temporary member of the Council in the place of the member during that period. (Added 7 of 1996 s. 5)

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(1B) In subsections (1), (1AA) and (1A), a reference to any member of the Council includes a person who is appointed, nominated or elected under section 3 to fill a vacancy in the office of the Council.

(2) While any person is acting as a temporary member of the Council, he shall be capable of performing all the duties and of exercising all the powers of the member whom he is temporarily replacing.

(Added 70 of 1975 s. 4)

**Clause 7 of the Bill – Section 4 of the Medical Registration Ordinance (Cap. 161) amended (meetings of Council)**

Section:	4	Meetings of the Council		30/06/1997
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(3) The validity of any proceedings of the Council shall not be affected by any vacancy among the members thereof or by any defect in the appointment, nomination or election of a member thereof.

**Clause 13 of the Bill – Section 20BD of the Medical Registration Ordinance (Cap. 161) general provisions applicable to assessors**

Section:	20BD	General provisions applicable to assessors		
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(3) In addition, the Council may declare an assessor's office to be vacant if the assessor—

- (a) becomes bankrupt, or enters into a composition or arrangement with the assessor's creditors without paying them in full;

**Clause 22 of the Bill – Section 20X of the Medical Registration Ordinance (Cap. 161) amended (appointment of inquiry panel)**

Section:	20X	Appointment of inquiry panel		
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~~(1) On receipt of a notification under section 20T(2A) that a Preliminary Investigation Committee has decided to refer a case to an inquiry panel for an inquiry under section 21, the Council must appoint an inquiry panel for the inquiry.~~

- (1) The Council must appoint an inquiry panel for the inquiry of a case if—
  - (a) the Council receives a notification under section 20T(2A) informing the Council of a Preliminary Investigation Committee's decision to refer the case to an inquiry panel; or
  - (b) the Court of Appeal remits a case to the Council under that section 26(1A)(b)(ii).
- (2) An inquiry panel appointed under subsection (1) must consist of—
  - (a) 3 registered medical practitioners each of whom is—
    - (i) a member of the Council; or
    - (ii) a medical assessor; and
  - (b) 2 lay persons each of whom is—
    - (i) a lay member of the Council; or
    - (ii) a lay assessor.
- (3) The Council must appoint a member of an inquiry panel to be the chairperson of the panel.
- (4) If, before the proceedings of an inquiry panel are concluded, a vacancy occurs in the membership of the panel because of the death, resignation or otherwise of a member,

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the Council must, as soon as possible, appoint another inquiry panel to hold a new inquiry.

(5) Subsection (4) does not apply if, when the vacancy occurs because of the circumstances mentioned in that subsection—

- ~~(a) the inquiry panel has determined its judgment; but~~
- ~~(b) an order has not yet been issued under section 21(1).~~
- (a) the inquiry panel has decided to make an order referred to in section 21(1); but
- (b) the order has not yet been issued.

**Clause 23 of the Bill – Section 21 of the Medical Registration Ordinance (Cap. 161)**  
**amended (disciplinary powers of Council)**

Section:	21	Disciplinary powers of <del>Council</del> inquiry panel	10 of 2005	08/07/2005
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(1) If, after due inquiry into any case referred to it by ~~the Preliminary Investigation Committee, the Health Committee or the Education and Accreditation Committee in accordance with regulations made under section 33, the Council~~ a Preliminary Investigation Committee in accordance with regulations made under section 33, ~~or any case remitted by the Court of Appeal,~~ an inquiry panel is satisfied that any registered medical practitioner-

- (a) has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment; (Amended 25 of 1984 s. 10)
- (b) has been guilty of misconduct in any professional respect; (Amended 33 of 1971 s. 2)
- (c) has obtained registration by fraud or misrepresentation;~~or~~ ;
- (d) was not at the time of his registration entitled to be registered~~;~~;
- (e) has breached a condition previously imposed under paragraph (iv)~~;~~ ; or (Added 7 of 1996 s. 26)
- ~~(f) is physically or mentally unfit to practise medicine, surgery or midwifery; or (Added 7 of 1996 s. 26)~~
- (g) where applicable, has procured his name to be included in the Specialist Register by fraud or misrepresentation, (Added 7 of 1996 s. 26)

the ~~Council may, in its discretion~~ panel may, in its discretion, exercise one or more of the following powers -

- (i) order the name of the registered medical practitioner to be removed from the General Register~~;~~~~or~~; (Amended 7 of 1996 s. 26)
- (ii) order the name of the registered medical practitioner to be removed from the General Register for such period as it may think fit~~;~~~~or~~; (Amended 7 of 1996 s. 26)
- (iii) order the registered medical practitioner to be reprimanded~~;~~~~or~~;
- (iiia) order that the name of the registered medical practitioner be removed from the Specialist Register~~;~~~~or~~; (Added 7 of 1996 s. 26)
- (iiib) order that the name of the registered medical practitioner be removed from the Specialist Register for such period as it may think fit~~;~~~~or~~; (Added 7 of 1996 s. 26)
- (iv) make any such order as aforesaid but suspend the application thereof, subject to such conditions as the ~~Council~~ panel may think it, for a period, or periods in the aggregate, not exceeding 3 years~~;~~~~or~~; (Replaced 12 of 1962 s. 3.)
- (iva) make any such order as aforesaid (except an order under paragraph (iv)) and further order that such order take effect upon its publication in the Gazette if the ~~Council~~ panel is satisfied that it is necessary to do so for the protection of the

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public or in the best interest of the registered medical practitioner;~~or~~; (Added 7 of 1996 s. 26)

(ivb) refer the case to the Health Committee;~~or~~; (Added 7 of 1996 s. 26)

(v) order that a warning letter be served on the registered medical practitioner; (Added 39 of 1974 s. 2)

and may, in any case, make such order as the ~~Council thinks~~ panel thinks fit with regard to the payment of the costs of the Registrar, the Secretary, any complainant or any person presenting the case to the ~~Council or panel or~~ of the registered medical practitioner, and any costs awarded may be recovered summarily as a civil debt in accordance with the provisions of section 67 of the Magistrates Ordinance (Cap 227). (Amended 30 of 1966 s. 4; 95 of 1970 s. 4; 7 of 1996 s. 26)

(1A) An order made by an inquiry panel under subsection (1) must be signed by the chairperson of the panel.

(2) For the purpose of subsection (1)-

"due inquiry" (適當的研訊) means an inquiry by ~~the Council~~ an inquiry panel conducted substantially in accordance with procedure prescribed by regulations made under section 33.

~~(2A) At any stage of an inquiry under this section, the Council may refer a matter relevant to the case under inquiry to the Ethics Committee for its consideration and recommendation. (Added 7 of 1996 s. 26)~~

(3) Nothing in this section shall be deemed to ~~require the Council~~ require an inquiry panel to inquire into the question whether the registered medical practitioner was properly convicted but the ~~Council may~~ panel may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence.

~~(4) In any inquiry under this section whether a person has been guilty of misconduct in any professional respect, any finding of fact which is shown to have been made in any matrimonial proceedings in a court of the Commonwealth having unlimited jurisdiction in civil matters, or on appeal from a decision in such proceedings, shall be conclusive evidence of the fact found. (Amended 33 of 1971 s. 2) [cf. 1956 c. 76 s. 33(2) U.K.]~~

~~(4A) A member of the Preliminary Investigation Committee who is also a member of the Council shall not attend a meeting of the Council whilst it is inquiring under this section into a complaint or information, in the preliminary investigation of which he took part. (Added 7 of 1996 s. 26)~~

(4A) A member of a Preliminary Investigation Committee who took part in the preliminary investigation of a complaint or information must not attend a meeting of an inquiry panel while it is inquiring into the complaint or information under this section.

(4B) ~~Within 14 days after the conclusion of an inquiry under this section, the Council may~~ An inquiry panel may, within 14 days after the conclusion of an inquiry, of its own initiative but not otherwise, review any decision or order made in the inquiry. (Added 7 of 1996 s. 26)

(4C) For the purpose of a review under subsection (4B), ~~the Council may invite the parties to the inquiry and such other persons who have appeared before the Council in the inquiry to appear again before the Council~~ an inquiry panel may invite the parties to the inquiry and other persons who have appeared before it in the inquiry to appear again before it, by themselves or by their counsel or solicitors. (Added 7 of 1996 s. 26)

(4CA) If, before a review under subsection (4B) is concluded, a vacancy occurs in the membership of an inquiry panel because of the death, resignation or otherwise of a member, the Council must, as soon as possible, appoint another inquiry panel to conduct the review.

(4CB) Subsection (4CA) does not apply if, when the vacancy occurs because of the circumstances mentioned in that subsection, the inquiry panel—

(a) has made a determination under subsection (4D)(a); but

(b) has not yet announced the determination under subsection (4D)(b).

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~~(4D) On a review by the Council under this section, the Council an inquiry panel under subsection (4B), the panel may affirm, vary or revoke any decision or order made in the inquiry. (Added 7 of 1996 s. 26)~~

- (4D) On a review by an inquiry panel under subsection (4B), the panel must—
- (a) make a determination as to any decision or order made in the inquiry by affirming, varying or revoking it; and
  - (b) announce the determination.

**Clause 24 of the Bill – Section 21A of the Medical Registration Ordinance (Cap. 161) amended (powers of Council in relation to fitness to practise of medical practitioners)**

Section:	21A	Powers of Council in relation to fitness to practise of medical practitioners	10 of 2005	08/07/2005
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(1) Upon a recommendation by the Health Committee under section 20V(1)(c) and either, the time for appeal against the recommendation under section 20W has expired and there is no appeal, or the Council has decided on an appeal against the decision under section 20W, if the Council is satisfied that the registered medical practitioner concerned is, by reason of health, physically or mentally unfit to practise medicine, surgery or midwifery, the Council may, in its discretion, ~~without a due inquiry under section 21~~ exercise one or more of the following powers -

- (a) order the name of the registered medical practitioner to be removed from the General Register; ~~or;~~
- (b) order the name of the registered medical practitioner to be removed from the General Register for such period as it may think fit; ~~or;~~
- ~~(c) make any such order as aforesaid but suspend the application thereof, subject to such conditions as the Council may think fit, for a period, or periods in the aggregate, not exceeding 3 years; or;~~
- (c) make an order referred to in paragraph (a) or (b) but suspend its application, subject to such conditions as the Council thinks appropriate, for a period, or periods in the aggregate, not exceeding 3 years;
- (d) make ~~any such order as aforesaid and further order that such an order referred to in paragraph (a) or (b) and further order that the order take effect upon its publication in the Gazette if the Council is satisfied that it is necessary to do so for the protection of the public or in the best interest of the registered medical practitioner.~~

(2) Where an order under subsection (1) is made without an order under subsection (1)(d) being made at the same time, within 1 month after the expiry of the time within which an appeal against an order under subsection (1) may be made to the Court of Appeal under section 26 or, if such an appeal has been made, within 1 month after the appeal is finally determined, the Council shall publish the order or, if the order is varied on appeal, the order as so varied in the Gazette. (Amended 10 of 2005 s. 63)

(3) Where an order under subsection (1)(d) is made at the same time as any order under subsection (1)(a), ~~(b) or (c)~~ or (b) is made, the Council shall, as soon as possible, publish the orders in the Gazette.

**Clause 29 of the Bill – Section 25 of the Medical Registration Ordinance (Cap. 161) amended (orders of the Council)**

Note:

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Section:	25	Orders of <del>the Council</del> Council and inquiry panel	10 of 2005	08/07/2005
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(1) A copy of any order made under section 21(1)(i), (ii), (iii), (iiia), (iiib), (iv) or (iva) or 21A(1) shall be served forthwith by the Registrar upon the registered medical practitioner concerned, either personally or by registered post addressed to his registered address. (Amended 39 of 1974 s. 3)

~~(1A) Where the Council If an inquiry panel makes an order under section 21(1)(v), the Registrar shall forthwith serve the warning letter upon the registered medical practitioner concerned either personally or by registered post addressed to his registered address. — (Added 39 of 1974 s. 3)~~

(1A) If an inquiry panel makes an order under section 21(1)(v), the Registrar must immediately serve the order, together with the warning letter, on the registered medical practitioner concerned, either personally or by registered post addressed to the practitioner's registered address.

**Clause 30 of the Bill – Section 26 of the Medical Registration Ordinance (Cap. 161) amended (appeals against orders of the Council)**

Section:	26	Appeals against orders of <del>the Council</del> Council and inquiry panel	10 of 2005	08/07/2005
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(1) Any registered medical practitioner who is aggrieved by any order made in respect of him under section 19, ~~19B, 21~~ 19B(2) or 21A may appeal to the Court of Appeal, and the Court of Appeal may thereupon affirm, reverse or vary the order appealed against, or remit the case to the Council for ~~an, or another, inquiry~~ reconsideration. (Amended 7 of 1996 s. 32)

(1A) A registered medical practitioner who is aggrieved by an order made by an inquiry panel in respect of the practitioner under section 21 may appeal to the Court of Appeal, and the Court may—

- (a) affirm, reverse or vary the order; or
- (b) remit the case to—
  - (i) the inquiry panel to hold a new inquiry; or
  - (ii) the Council for appointing another inquiry panel to hold a new inquiry.

(2) (Repealed 10 of 2005 s. 60)

(3) The practice in relation to ~~any such appeal shall be an appeal under this section is~~ subject to any rules of court made under the High Court Ordinance (Cap 4): (Amended 25 of 1998 s. 2)

Provided that the Court of Appeal shall not have power to hear any appeal against an order made under section 21 or 21A unless notice of such appeal was given within 1 month of the service of the order in accordance with section 25(1) ~~or (1A)~~. (Amended 7 of 1996 s. 32)

(4) In deciding any appeal under this section the Court of Appeal may make such order for the payment of costs as it considers reasonable. (Added 95 of 1970 s. 5)

~~(5) In an inquiry held pursuant to the Court of Appeal remitting the case to the Council under subsection (1), the validity of the proceedings before the Council shall not be called into question by reason only that any member of the Council who was present in the former inquiry is not present in the current inquiry or that any member of the Council present in the current inquiry was not present in the former inquiry. — (Added 7 of 1996 s. 32)~~

(5) At a meeting held as a result of a case remitted by the Court of Appeal under subsection (1), the validity of the proceedings before the Council is not to be called into question only because—

- (a) a member of the Council who was present at the former meeting is not present at the current meeting; or

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(b) a member of the Council who was present at the current meeting is not present at the former meeting.

(6) At an inquiry held as a result of a case remitted by the Court of Appeal under subsection ~~(1A)(b)~~(1A)(b)(ii), the validity of the proceedings before the inquiry panel is not to be called into question only because—

- (a) a member of the inquiry panel who was present in the former inquiry is not present in the current inquiry; or
- (b) a member of the inquiry panel present in the current inquiry was not present in the former inquiry.

~~(Amended 92 of 1975 s. 59)~~

**Clause 31 of the Bill – Section 33 of the Medical Registration Ordinance (Cap. 161) amended (regulations)**

Section:	33	<del>Regulations</del> <b>Power to make regulations</b>	L.N. 130 of 2007	01/07/2007
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(3A) The Permanent Secretary ~~for Food and Health (Health)~~ may, by regulation, provide for the procedure and other matters in relation to an election or appointment to an office of the Council under section 3(2)(ga), including the qualifications of candidates, the eligibility requirements for electors and subscribers for a nomination paper, the particulars of any system of voting and counting, the determination of election results and questioning of the results.

(4) The Council may by regulation provide for-

- (a) the procedure to be followed in relation to-
  - (i) appeals to the Council under this Ordinance;
  - (ii) reviews and appeals under this Ordinance;
  - (iii) the receipt of complaints or information touching any matter that may be inquired into by ~~the Council~~ an inquiry panel;
  - (iv) the submission of complaints and information to ~~the Preliminary~~ a Preliminary Investigation Committee;
  - (v) the preliminary investigation of any complaint or information by ~~the Preliminary~~ a Preliminary Investigation Committee;
  - (vi) the formulation of charges arising out of complaints and information;
  - (vii) the reference to ~~the Council by the Preliminary~~ an inquiry panel by a Preliminary Investigation Committee of cases arising out of complaints and information;
  - ~~(viii) the procedure to be followed in relation to inquiries held by the Council or an inquiry panel;~~
  - (viii) inquiries held by the Council or an inquiry panel;
  - (viii) the reference of cases to and by the Education and Accreditation Committee;
  - (ix) hearings by the Health Committee and references of cases to and by the Health Committee;

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**Clause 34 of the Bill – Schedule 5 of the Medical Registration Ordinance (Cap. 161) assessors**

Schedule:	5	Assessors		
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**Table 2**

Column 1	Column 2	Column 3 Minimum number of medical assessors	Column 4 Maximum number of medical assessors
Item	Nominating authority		
1.	Director	2	10
2.	The University of Hong Kong	2	10
3.	The Chinese University of Hong Kong	2	10
4.	Hospital Authority	2	10
5.	Academy of Medicine	2	10
6.	<del>Hong Kong</del> The Hong Kong Medical Association	2	10
7.	Hong Kong Doctors Union	2	10
8.	Hong Kong Public Doctors' Association	2	10.

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

*Revisions made in green are amendments proposed by the Government's draft Committee Stage Amendments*

**Clause 35 of the Bill – Section 4 of the Medical Practitioners (Electoral Provisions)(Procedure) Regulation (Cap. 161 sub. leg. B) amended (qualifications for nomination as a candidate and disqualification for election and holding office)**

Section:	4	Qualifications for nomination as a candidate and disqualification for election and holding office	L.N. 55 of 2000	03/03/2000
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(2) A registered medical practitioner is disqualified from being nominated in an election or holding office under section 3(2)(j) of the Ordinance if-

- (a) he is the subject of an order ~~of the Council~~ made under section 21 or 21A of the Ordinance;
- ~~(b) he has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment;—~~
- (c) he is nominated as a candidate for election to fill a vacancy in an office under section ~~3(2)(i) 3(2)(h)~~ (3)(2)(ha) or (i) of the Ordinance, irrespective of whether or not he is subsequently elected to that office under that section;
- (d) he is an undischarged bankrupt or, within the previous 5 years, he has either obtained his discharge in bankruptcy or has entered into ~~composition or arrangement~~ a composition or arrangement with his creditors, in either case without paying his creditors in full;
- (e) he has been convicted of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); or (10 of 2000 s. 47)
- (f) he has committed a corrupt practice or an illegal practice within the meaning of section 29 in a previous election.

(Enacted 1996)

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

*Revisions made in green are amendments proposed by the Government's draft Committee Stage Amendments*

**Clause 35A of the Bill – Section 8 of the Medical Practitioners (Electoral Provisions)(Procedure) Regulation (Cap. 161 sub. leg. B) amended (filling of casual vacancy where unexpired period is less than 1 year)**

Section:	8	Filling of casual vacancy where unexpired period is less than 1 year		30/06/1997
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(1) Where the office of a member of the Council under section 3(2)(j) of the Ordinance becomes vacant and the unexpired period of his office at the time the vacancy arises is less than 1 year, the Secretary shall forthwith notify the Chairman and members of the Council **who are registered medical practitioners** of the vacancy and invite nomination of candidates from them.

(2) A nomination of candidate pursuant to an invitation under subsection (1) or (4) must-

- (a) be in Form 3 in Schedule 1;
- (b) be subscribed by 2 members of the Council **who are registered medical practitioners**, one of whom may be the Chairman, as proposer and seconder respectively, and be accompanied by the signification of consent to the nomination from the nominated candidate; and
- (c) reach the Secretary within 1 month of the date of the invitation.

(3) Where, on the expiry of the 1 month period, the number of nominated candidates is the same as the number of vacancies, no meeting of the Council for the purpose of electing the candidates is required and the Secretary shall forthwith circulate the particulars of the nomination in the form of a Council paper for the endorsement of the Council.

(4) On endorsement by the Council, the candidates nominated are appointed under section 3(5B) of the Ordinance to fill the vacancies. If the Council does not endorse the result, the Secretary shall forthwith send out notices to members of the Council **who are registered medical practitioners** to further invite nominations from them.

(Enacted 1996)

**Clause 39 of the Bill – Section 24 of the Medical Practitioners (Electoral Provisions)(Procedure) Regulation (Cap. 161 sub. leg. B) amended (result of election and declaration of result)**

Section:	24	Result of election and declaration of result		30/06/1997
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(4) When, in the opinion of the Secretary, the overall result of an election is ascertained, whether by polling, under section 15, ~~16 or 25~~ **or 16**, or a combination of these manners, and notwithstanding any vacancy remaining (if any) under section 16(3), the Secretary ~~may~~ **must** -

- (a) publish a notification of the result of election in the Gazette; and
- (b) issue to all registered medical practitioners a notice of result of election in Form 8 in Schedule 1 informing them the result.

(Enacted 1996)

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

*Revisions made in green are amendments proposed by the Government's draft Committee Stage Amendments*



**Clause 41 of the Bill – Schedule 1 of the Medical Practitioners (Electoral Provisions)(Procedure) Regulation (Cap. 161 sub. leg. B) amended (form 2, Part II, paragraph 3)**

Schedule:	1		L.N. 312 of 1998	11/09/1998
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FORM 2  
MEDICAL COUNCIL (ELECTORAL PROVISIONS)  
(PROCEDURE) REGULATION

ELECTION OF A MEDICAL COUNCIL MEMBER  
FOR THE PERIOD ..... TO .....

NOMINATION PAPER

PART II (to be completed by candidate)-

1. I hereby consent to my nomination as a candidate at the above election.
2. I hereby declare that I am qualified under section 4(1) of the Medical Council (Electoral Provisions) (Procedure) Regulation for nomination as a candidate ~~and for in an~~ election. The date of my registration with the Medical Council is .....
3. I hereby further declare that to the best of my knowledge and belief I am not disqualified from being nominated ~~or elected~~ by reason of any disqualification contained in section 4(2) of the aforementioned Regulation.

**Clause 44 of the Bill – Section 8 of the Medical Registration (Miscellaneous Provisions) Regulation (Cap. 161 sub. leg. D) amended (advice by legal adviser)**

Section:	8	Advice by <del>Legal Adviser</del> legal adviser		30/06/1997
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(1) This section applies if a legal adviser gives advice on a question of law as to evidence, procedure or any other matter—

- ~~(a) in at an inquiry held by an inquiry panel under section 21 of the Ordinance;~~
- ~~(a) at a meeting or an inquiry mentioned in section 6(1);~~
- ~~(a) in at an appeal hearing from a decision of a committee; or~~
- ~~(b) in at a meeting of the Council held pursuant to an election petition under —~~
  - ~~(i) the Medical Practitioners Election Regulation; or~~
  - ~~(ii) the Patient Organizations Election Regulation.~~

**Clause 51 of the Bill – Section 9 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (reference of case to Committee)**

Section:	9	Reference of case to Committee		30/06/1997
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~~(1) Except where section 10 applies, if a case received by the chairman or the deputy chairman of the Committee under a Committee under section 6 has not been dismissed or referred to the Health Committee under that section, the chairman or the deputy chairman of the Committee shall, except where section 16(1) applies, direct that the case be referred to the Committee for its consideration and shall direct the Secretary to fix a date upon which it is proposed that the Committee is to meet to consider the case.—~~

(1) Except where section 10 or 16(1A) applies, the chairman or the deputy chairman of a Committee who receives a case under section 6 must make the directions specified in subsection (1A) if—

Note:

Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017

Revisions made in green are amendments proposed by the Government's draft Committee Stage Amendments



- (a) the case has not been dismissed under section 6(3);
  - (b) the case has not been referred to the Health Committee under section 6(4); or
  - (c) he or she has directed that the case be investigated further under section 6(5).
- (1A) The directions specified for subsection (1) are—
- (a) that the case must be referred to the Committee for its consideration; and
  - (b) that the Secretary must fix a date on which it is proposed that the Committee meets to consider the case.
- (2) Where the Secretary is directed under subsection (1) to fix a date, the Secretary shall—
- (a) fix a date for the proposed meeting;
  - (b) notify the defendant of the receipt of the complaint, information or referral, and indicate any matters or allegations which may appear to raise a question whether the defendant has been guilty of misconduct in a professional respect;
  - (c) provide him a copy of any letter of complaint or information;
  - (d) forward to him a copy of any statutory declaration furnished under section 8;
  - (e) inform him of the date upon which the Committee is due to meet for the purpose of considering the case; and
  - (f) invite him to submit to the Committee in writing any explanation of his conduct or of any matter alleged in the complaint, information or referral which he may have to offer.

(Enacted 1996)

**Clause 54 of the Bill – Section 13 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (referral of case to Council for inquiry)**

Section:	13	<del>Referral of case to Council for inquiry</del> Fixing date for holding inquiry	30/06/1997
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~~(1) If the Committee decides to refer a case to the Council for inquiry, the chairman of the Committee shall send a written notification of the decision of the Committee to the Chairman specifying the matters as identified by the Committee to be so referred and which form the basis of the charge or charges into which an inquiry is to be held.—~~

~~(2) On receipt of a notification under subsection (1) or on a remission of a case to the Council by the Court of Appeal under section 26(1) of the Ordinance, the Chairman shall direct the Secretary to fix a date upon which it is proposed that the inquiry is to be held.—~~

~~(1) If a Committee decides to refer a case to an inquiry panel for inquiry, the chairman of the Committee must—~~

~~(a) send a written notification of the decision to the Council under section 20T(2A) of the Ordinance; and~~

~~(b) on the appointment of an inquiry panel by the Council under section 20X(1) of the Ordinance for the inquiry, send a written notification of the decision to the chairperson of the panel, specifying the matters—~~

~~(i) that the Committee identifies to be so referred; and~~

~~(ii) that form the basis of the charge or charges into which an inquiry is to be held.~~

~~(2) On receipt of a notification under subsection (1), the chairperson of the inquiry panel must direct the Secretary to fix a date for holding an inquiry.~~

~~(3) If the Council decides to conduct an inquiry pursuant to a recommendation of the Health Committee under section 20V(1) of the Ordinance or a recommendation of the Education and Accreditation Committee under section 20N(1)(d) of the Ordinance, the Chairman shall direct the Secretary to fix a date upon which it is proposed that the inquiry is to be held.—~~

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

*Revisions made in green are amendments proposed by the Government's draft Committee Stage Amendments*

(4) Except with the written consent of the defendant to a shorter period of notice, the Secretary shall, within 2 months ~~of the receipt of a notification under subsection (1) after a direction by the chairperson of the panel under subsection (2)~~ and at least 28 days before the date fixed for the inquiry, serve on the defendant a notice of inquiry together with a copy of this Regulation and shall inform the complainant of the holding of the inquiry.

**Clause 55 of the Bill – Section 13A of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) add (declaration of interest by members of inquiry panel)**

Section:	13A	Declaration of interest by members of inquiry panel		
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(1) This section applies to an inquiry panel that—  
 (aa) holds an inquiry under section 21 of the Ordinance;  
 (a) reviews its decision or order under section 21(4B) of the Ordinance; or  
 (b) holds an inquiry after the Court of Appeal remits a case under section 26(1A)(b) of the Ordinance.

(2) If, before the opening of an inquiry by an inquiry panel or at any stage of the inquiry, the chairperson of the panel becomes aware that he or she is in any way interested in the case, the chairperson must declare the interest to the Chairman as soon as practicable after becoming so aware.

(3) If, before the opening of an inquiry by an inquiry panel or at any stage of the inquiry, another member of the panel becomes aware that he or she is in any way interested in the case, the member must declare the interest to the chairperson of the panel as soon as practicable after becoming so aware.

(3A) Subsections (2) and (3) have effect in relation to a review under section 21(4B) of the Ordinance as if the references to inquiry in those subsections were references to review.

(4) If a declaration of interest is made under this section, the Council must appoint another inquiry panel to inquire into ~~the case or~~ review the decision or order, as the case may be.

**Clause 63 of the Bill – Section 21 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (representation)**

Section:	21	Representation	L.N. 362 of 1997	01/07/1997
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(1) Any party to an inquiry may be represented by a solicitor or counsel.

~~(2) On the application of the Chairman, the Secretary for Justice may appoint a legal officer within the meaning of the Legal Officers Ordinance (Cap 87), to carry out the duties of the Secretary in respect of an inquiry. (L.N. 362 of 1997)–~~

(2) On the application of the chairperson of an inquiry panel, the Secretary for Justice may appoint a solicitor or counsel, ~~including~~ or a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87), to carry out the duties of the Secretary in respect of an inquiry by the panel.

(Enacted 1996)

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

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**Clause 74 of the Bill – Section 32 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (voting)**

Section:	32	Voting		30/06/1997
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~~–(3) Where on any question to be determined by the Council decided by an inquiry panel the votes are equal, the question shall be deemed to have been decided in favour of the defendant.–~~

(Enacted 1996)

**Clause 76 of the Bill – Section 34 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (review by Council)**

Section:	34	Review by <del>Council</del> inquiry panel		30/06/1997
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~~(1) Where the Council If an inquiry panel has decided to review its decision under section 21 of the Ordinance and has decided to invite the parties to the inquiry to attend the review, the Chairman shall chairperson of the panel must direct the Secretary to notify the parties in writing and invite them to appear before the Council before the panel at the time and place fixed for the holding of the review, and the Secretary shall comply with the direction.–~~

~~(2) At the review, the Council, may invite the parties to address the Council in such order as the Council a review, an inquiry panel may invite the parties to address the panel in the order it thinks fit.–~~

~~(3) Where the Council If an inquiry panel has invited the parties to attend a review, the Council may it may proceed with the review notwithstanding the absence of any party.–~~

~~(4) After a review by the Council an inquiry panel under section 21(4B) of the Ordinance, the Chairman shall announce the Council's chairperson of the panel must announce the panel's latest decision in writing and direct the Secretary to serve a notice of the decision on the defendant and to notify the complainant accordingly.–~~

~~(5) The Secretary shall comply with a direction under subsection (4).–~~

(1) If, after an inquiry under section 21 of the Ordinance, an inquiry panel has decided to—

- (a) review its decision or order under section 21(4B) of the Ordinance; and
- (b) invite any specified person to attend the review under section 21(4C) of the Ordinance,

the chairperson of the panel must direct the Secretary to notify the specified person in writing and invite the specified person to appear before the panel at the time and place fixed for holding the review.

(2) At the review, the inquiry panel may invite a specified person to address the panel in the order it thinks appropriate.

(3) The inquiry panel may proceed with the review in the absence of any specified person.

(4) After the review, the chairperson of the panel must—

- (a) announce the panel's latest decision in writing; and
- (b) direct the Secretary to—
  - (i) serve a notice of the decision on the defendant; and
  - (ii) notify the complainant of the panel's decision.

(5) The Secretary must comply with a direction given under subsection (1) or (4).

(6) In this section—

specified person ( ) means—

- (a) a party to an inquiry under section 21 of the Ordinance; or

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- (b) any other person who has appeared before an inquiry panel in the inquiry.

**Clause 78 of the Bill – Section 37 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (order of procedure of Health Committee)**

Section:	37	Order of procedure of Health Committee	30/06/1997
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(6) Witnesses called on behalf of any party to the hearing may be questioned by the other party or by the chairman, ~~the deputy chairman~~ or any other member of the Health Committee.

**Clause 80 of the Bill – Section 39 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (direction for further hearing by Health Committee)**

Section:	39	Direction for further hearing by Health Committee	30/06/1997
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(1) The Chairman may direct the Health Committee to conduct a further hearing of a case which has been heard by the Health Committee where-

- ~~(a) the Council has made an order under section 21(1) or 21A of the Ordinance pursuant to a finding of physical or mental unfitness to practise of a registered medical practitioner and the Council has, since the making of the order, received information as to that fitness to practise of the registered medical practitioner which, in the opinion of the Chairman, justifies the review of the order; or~~
- ~~(b) the Council has made an order under section 21(1) or 21A of the Ordinance pursuant to a finding of physical or mental unfitness to practise of a registered medical practitioner which has been suspended subject to the compliance of certain conditions and it appears to the Chairman based on any complaint or information received, that there has been a non-compliance with any of those conditions.~~
- (a) if—
  - (i) the Council has, since its making of a section 21A order in respect of a registered medical practitioner, received information as to the fitness to practise of the practitioner; and
  - (ii) in the opinion of the Chairman, the information justifies a review of the order; or
- (b) if—
  - (i) a section 21A order made by the Council in respect of a registered medical practitioner has been suspended subject to compliance with specified conditions; and
  - (ii) it appears to the Chairman, based on any complaint or information received, that any of the conditions has not been complied with.

~~(1A) The chairperson of an inquiry panel may direct the Health Committee to conduct a further hearing—~~

- ~~(a) if—~~
  - ~~(i) the panel has, since its making of a section 21 order in respect of a registered medical practitioner, received information as to the fitness to practise of the practitioner; and~~
  - ~~(ii) in the opinion of the chairperson, the information justifies a review of the order; or~~
- ~~(b) if—~~

*Note:*

*Revisions made in blue are amendments proposed by the Medical Registration (Amendment) Bill 2017*

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- ~~(i) a section 21 order made by the panel in respect of a registered medical practitioner has been suspended subject to compliance with specified conditions; and~~
- ~~(ii) it appears to the chairperson, based on any complaint or information received, that any of the conditions has not been complied with.~~

(2) The chairman of the Health Committee may order a further hearing by the Committee where the Committee has announced that there will be further hearing of the case under section 38(5).

(Enacted 1996)

(3) In this section—

~~section 21 order (第21條命令), in relation to a registered medical practitioner, means an order made under section 21(1) of the Ordinance as a result of a finding by the Health Committee of the practitioner's physical or mental unfitness to practise;~~

**section 21A order (第21A條命令), in relation to a registered medical practitioner, means an order made under section 21A(1) of the Ordinance as a result of a finding by the Health Committee of the practitioner's physical or mental unfitness to practise.**

**Clause 81 of the Bill – Section 40 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (notice of further hearing)**

Section:	40	Notice of further hearing	30/06/1997
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~~(1) If the Chairman or the chairman of the Health Committee, as the case may be, makes a direction or order the Chairman or the chairman of the Health Committee, as the case may be, makes a direction or order a direction or an order is made~~ under section 39, the Secretary shall fix a date for the further hearing.

**Clause 82 of the Bill – Section 41 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) amended (further medical examination)**

Section:	41	Further medical examination	30/06/1997
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~~(1) Where the Chairman or the chairman of the Health Committee directs or orders the Health Committee to conduct a further hearing, the Chairman or the chairman of the Committee, Where the Chairman or the chairman of the Health Committee directs or orders the Health Committee to conduct a further hearing, the Chairman or the chairman of the Committee, When making a direction or an order under section 39, the Chairman, the chairperson of the inquiry panel concerned or the chairman of the Health Committee, as the case may be, may direct the Secretary to, and the Secretary when so directed shall, by notice in writing, invite the registered medical practitioner-~~

- (a) to submit to medical examination by one or more medical examiners acceptable to the Committee within such time as may be specified in the notice; and
- (b) to agree to those examiners furnishing to the Health Committee, before it considers the case, to assist the Committee in deciding the case, medical reports on his fitness to practise, either generally or on a limited basis, with recommendations, if any, on the management of his case.

*Note:*

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(2) The cost of any medical examination under subsection (1) shall be payable by the registered medical practitioner.

(Enacted 1996)

*Note:*

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