

立法會
Legislative Council

LC Paper No. CB(2)2135/16-17

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HS

Panel on Health Services

**Minutes of special meeting
held on Monday, 29 May 2017, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

- Members present** :
- Prof Hon Joseph LEE Kok-long, SBS, JP (Chairman)
 - Dr Hon Pierre CHAN (Deputy Chairman)
 - Hon Tommy CHEUNG Yu-yan, GBS, JP
 - Hon WONG Ting-kwong, SBS, JP
 - Hon CHAN Kin-por, BBS, JP
 - Hon Mrs Regina IP LAU Suk-ye, GBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon YIU Si-wing, BBS
 - Hon Charles Peter MOK, JP
 - Hon CHAN Chi-chuen
 - Hon Alice MAK Mei-kuen, BBS, JP
 - Dr Hon KWOK Ka-ki
 - Dr Hon Fernando CHEUNG Chiu-hung
 - Dr Hon Helena WONG Pik-wan
 - Hon POON Siu-ping, BBS, MH
 - Dr Hon Junius HO Kwan-yiu, JP
 - Hon SHIU Ka-fai
 - Hon SHIU Ka-chun
- Members absent** :
- Hon LEUNG Kwok-hung
 - Hon CHAN Han-pan, JP
 - Dr Hon Elizabeth QUAT, JP
 - Hon CHU Hoi-dick
 - Hon YUNG Hoi-yan
 - Hon Jeremy TAM Man-ho

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

- Public Officers attending** : Dr KO Wing-man, BBS, JP
Secretary for Food and Health
- Mr Patrick NIP Tak-kuen, JP
Permanent Secretary for Food and Health (Health)
Food and Health Bureau
- Mr Chris SUN Yuk-han, JP
Head, Healthcare Planning and Development Office
Food and Health Bureau
- Ms Lisa LAI Yuk-wan
Secretary (Medical Council)
Department of Health
- Clerk in attendance** : Ms Maisie LAM
Chief Council Secretary (2) 5
- Staff in attendance** : Ms Priscilla LAU
Council Secretary (2) 5
- Miss Maggie CHIU
Legislative Assistant (2) 5

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- I. Medical Registration (Amendment) Bill 2017**
[File Ref.: FHCR1/F/3261/92 and LC Paper No. CB(2)1490/16-17(01)]
- Secretary for Food and Health ("SFH") briefed members on the Medical Registration (Amendment) Bill 2017 ("the 2017 Bill"), details of the legislative proposals were set out in the Legislative Council ("LegCo") Brief issued by the Food and Health Bureau (File Ref.: FHCR1/F/3261/92).
2. Members noted the information note entitled "Medical Registration (Amendment) Bill 2017" prepared by the LegCo Secretariat (LC Paper No. CB(2)1490/16-17(01)).

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Composition of the Medical Council

3. Dr Pierre CHAN considered that the legislative proposal of converting two registered medical practitioner seats in the Medical Council of Hong Kong ("the Medical Council") from being nominated by the Hong Kong Academy of Medicine ("the Academy of Medicine") for appointment by the Chief Executive ("CE") to being elected by the Academy of Medicine in accordance with the rules and regulations governing its operation was no different from the position of the Administration during the scrutiny of the Medical Registration (Amendment) Bill 2016 ("the 2016 Bill"), which was a main controversy at that time. Ms Alice MAK sought clarification as to whether the procedure for electing the two registered medical practitioners by the Academy of Medicine to be the Council members of the Medical Council would solely be determined by the Academy of Medicine. Dr Fernando CHEUNG considered that under the above legislative proposal, the elected element in the composition of the Medical Council had not been increased as the existing nomination procedures, same as the proposed election procedures, were determined by the Academy of Medicine. The proposal only removed the requirement to have the two representatives to be appointed by CE. The above apart, he considered that the number of lay members in the Medical Council, which was proposed to be increased from four to eight, should be further increased to enhance the transparency and accountability of the Medical Council.

4. Dr KWOK Ka-ki expressed disappointment that many issues were not fully deliberated by the tripartite platform, which was set up by the Administration and comprised representatives from the medical sector, representatives of patients' interests and consumers' interests and LegCo Members to promote understanding as well as provide views on the proposed amendments to the Medical Registration Ordinance (Cap. 161). Questioning the position of the Academy of Medicine towards the above legislative proposal, he was of the view that professional autonomy could not be attained by the proposal. He urged the Administration to re-consider his suggestion as raised during the scrutiny of the 2016 Bill that the number of registered medical practitioners nominated respectively by The University of Hong Kong ("HKU"), The Chinese University of Hong Kong ("CUHK"), the Hospital Authority ("HA") and Director of Health for appointment by CE onto the Medical Council should be reduced from two to one each and the number of members elected by registered medical practitioners with full registration and limited registration should be increased correspondingly by four.

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5. SFH advised that the above legislative proposal was originated from the medical profession during the scrutiny of the 2016 Bill to address their concerns over the ratio of elected and appointed members in the Medical Council and accusation that decisions made by those members appointed by CE onto the Medical Council might be tilted in favour of the Government. He stressed that the medical profession demanded an equal ratio of the number of elected members and appointed members (registered medical practitioners or lay), and now the medical profession had shifted their position to insisting on elected registered medical practitioner members accounting for half of the Medical Council's membership. Having regard to the principle of professional and academic autonomy, the Administration considered it appropriate for the Academy of Medicine, being a statutory body responsible for medical specialist training, to determine how it would elect the two registered medical practitioners in accordance with the regulations or procedures governing its operation. The Academy of Medicine had written to the tripartite platform indicating that the proposal was in line with the majority view of its survey to Fellows. In response to Dr KWOK Ka-ki's remark that there was a suggestion from the medical profession, including members of the Academy of Medicine, that the two seats concerned should be directly elected by all Fellows of the Academy of Medicine, SFH said that the 2017 Bill provided flexibility on how these members could be elected by the Academy of Medicine.

6. SFH further advised that different from the 2016 Bill, it was proposed under the 2017 Bill that appointment by CE was not required for all the four proposed additional lay members of the Medical Council, with three of them to be elected by recognized patient-related organizations and one of them to be nominated by the Consumer Council. Hence, elected members and member nominated by the Consumer Council would account for about two-thirds of the membership of the Medical Council. Registered medical practitioner members would remain the majority (i.e. 75%) in the Medical Council. While some members of the medical profession were now of the view that directly elected registered medical practitioner members should account for half of the membership of the Medical Council, some representatives of patients' interests considered that professional autonomy of the medical profession had been upheld by having the majority of members of the Medical Council being registered medical practitioners, appointed or elected, and objected to increase in the number of directly elected registered medical practitioner members. The perception, real or perceived, that elected registered medical practitioner members might incline to protect interest of registered medical practitioners at the expense of public interest had to be adequately addressed in order to uphold the credibility and integrity of the Medical Council. It was also groundless to say that decisions made by appointed

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members might be tilted in favour of the Government as these members were professionally independent and they acted for public interest in fulfilment of the mission of the Medical Council. SFH cited an example that while half of the membership of the medical regulatory body in the United Kingdom ("UK") (i.e. the General Medical Council) was made up of professional members, none of them were elected members.

7. Dr Pierre CHAN considered it inappropriate to make reference to the composition of the medical regulatory body in UK whereby all its professional members were appointed members, as the UK government was formed by the party that obtained a majority in the House of Commons at a general election. He criticized that the Administration was selective in citing the overseas practice for reference of members. SFH advised that overseas experience was illustrated as a reference in the tripartite platform. In Singapore, 24 out of the 25 members of the medical regulatory body were medical practitioners, with 12 of them being elected members. For the medical regulatory body in Australia, eight out of 12 members were medical practitioners and they were all appointed members.

8. Mr Tommy CHEUNG declared that his daughter and son-in-law were medical practitioners practising overseas. He expressed appreciation of the efforts made by the current-term Government in introducing the 2016 Bill and the 2017 Bill to take forward the reform in this regard. He considered it inappropriate to turn the seats of registered medical practitioners on the Medical Council currently being nominated by HKU and CUHK to being elected by the registered medical practitioners as suggested by some members of the medical profession, as this might undermine academic autonomy. In his view, each registered medical practitioner should only be entitled to one vote for electing members of the Medical Council.

9. Dr KWOK Ka-ki maintained his view that the legislative proposals had failed to address the views raised by the medical profession on the need to increase the elected element in the composition of the Medical Council. Mr CHAN Kin-por expressed support for the legislative proposals. Referring to the experience that despite that there was overwhelming public support to the Bill, the proceedings of the 2016 Bill could not be completed and the Bill lapsed upon the prorogation of the Fifth LegCo on 16 July 2016 due to the political consideration of some Members and divergent views on the Bill within LegCo, he asked whether the Administration had confidence that the 2017 Bill could be dealt with within the current legislative session.

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10. SFH responded that it was hoped that the Bills Committee to be formed to study the 2017 Bill could complete the scrutiny of the Bill as early as practicable within the term of the Sixth LegCo. He further said that as the long title of the 2017 Bill was less restrictive than that of the 2016 Bill, the Bills Committee so formed could consider whether it would introduce any Committee stage amendments to the Bill if it had reached a consensus view on the issue.

Complaint investigation and disciplinary inquiry mechanism

11. Mrs Regina IP said that she was in support of the legislative proposals to improve the complaint investigation and disciplinary inquiry mechanism of the Medical Council. Dr Pierre CHAN considered that the legislative proposals could by and large improve the complaint investigation and disciplinary inquiry mechanism of the Medical Council. Noting with concern that it would take about 72 months for the Medical Council to conclude a case requiring disciplinary inquiry, Ms Alice MAK expressed support for the legislative proposals to increase the number of assessors and legal advisers. In her view, any improvement made to the complaint investigation and disciplinary inquiry mechanism would benefit patients, patients' families and registered medical practitioners. She called for the early passage of the 2017 Bill.

12. Dr Fernando CHEUNG considered that the regulatory power of the Medical Council was too extensive. In the long run, a separate statutory body should be set up to conduct disciplinary inquiry against registered medical practitioners. In the meantime, it was necessary to improve the existing complaint investigation and disciplinary inquiry mechanism of the Medical Council. He asked whether consideration could be given to having lay persons accounting for more than half of the membership of a Preliminary Investigation Committee ("PIC") and an Inquiry Panel ("IP") in order to enhance the transparency and accountability of the mechanism. Referring to the legislative proposal to expand the pool of assessors for setting up more than one PIC and IP, Dr KWOK Ka-ki was concerned about the requirements relating to the qualification and experience of medical assessors and lay assessors. Dr Pierre CHAN remarked that a majority of the respondents to a survey conducted under the HKU Public Opinion Programme and a survey amongst members of the medical and dental professions were in favour of setting up an independent body to handle complaints against the professional conduct of registered medical practitioners.

13. SFH said that the establishment of a mechanism independent from the Medical Council to handle complaints against the professional conduct

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of registered medical practitioners involved thorough discussion and substantial legislative amendments which would take time. The 2017 Bill served as a step forward to swiftly improve the efficiency and enhance flexibility of the existing complaint investigation and disciplinary inquiry mechanism of the Medical Council, considering the heavy caseload and substantial backlog of the Medical Council. Different from the existing arrangement that the Medical Council would conduct disciplinary inquiry and had full disciplinary power to make order and review its decision, the 2017 Bill proposed that a modern mechanism separate from but under the auspices of the Medical Council, i.e. IPs, would be set up under the Medical Council. IPs would have full disciplinary power to make order and review its decisions. The pool of assessors appointed for the purpose of sitting on PIC and IP would be sufficiently large for formation of enough PICs and IPs in order to complete the complaint investigation and disciplinary inquiry process within a reasonable period of time. The Medical Council would be empowered to specify the qualifications and experience that a person had to possess in order to be eligible for nomination as a medical assessor and lay assessor. Necessary support would be provided by the Medical Council Secretariat to facilitate the assessors to perform their duties.

14. Permanent Secretary for Food and Health (Health) ("PSFH(H)") supplemented that under the 2017 Bill, the number of assessors would be increased from 14 under the existing arrangement to the range of 28 to 140. Among them, there would be 12 to 60 lay assessors to be nominated by, among others, the Hong Kong Bar Association, the Law Society of Hong Kong, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Council of Social Service. On the composition of PIC, it was proposed that three out of the seven members of each PIC would be lay persons being either a lay member of the Medical Council or a lay assessor. As for the proposed IP, two out of the five members of each IP would be lay persons who had to either be a lay member of the Medical Council or a lay assessor. The 2017 Bill further proposed that the Chairman and Deputy Chairman of each PIC and IP to be appointed by the Medical Council could either be a member of the Medical Council or an assessor.

15. Noting that the Medical Council Secretariat would invite experts to provide independent expert opinion at the PIC stage, Mrs Regina IP asked whether honorarium would now be provided as a token of gratitude to experts, which was suggested by the medical profession during the scrutiny of the 2016 Bill. SFH replied in the affirmative. The Administration had already provided resources to the Medical Council to provide honorarium to independent expert so as to speed up the process. Mrs Regina IP was of the view that honorarium should also be provided to the assessors as a

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token of gratitude given their heavy workload. SFH took note of the suggestion.

Extension of the period of limited registration of medical practitioners

16. Pointing out the immense work pressure of the frontline doctors at the public hospitals, Mrs Regina IP and Ms Alice MAK expressed support for the proposed extension of the validity period and renewal period of limited registration from not exceeding one year to not exceeding three years in order to attract more experienced non-locally trained specialists to perform clinical and hospital work in HA. Ms Alice MAK, however, urged HA to ensure the quality and competency level of the medical practitioners with limited registration so employed and that their employment would not affect the career path of medical practitioners with full registration.

17. SFH advised that it was also a common practice that many places outside Hong Kong would turn to non-locally trained healthcare graduates from abroad to help address manpower shortage at home. Locally, the Medical Council was empowered to grant limited registration to non-locally trained medical practitioners with appropriate qualifications and experience to be employed by the Department of Health, HA, HKU or CUHK ("the prescribed institutions") to undertake specified duties within a period as specified by the Medical Council. Private practice was not allowed under the law. Currently, the maximum duration of limited registration was one year. In the case of HA, recruitment of medical practitioners with limited registration would only be initiated when there were requests from relevant departments and the requests were in consultation with frontline doctors and agreement with the Specialty Coordinating Committee after thorough consideration. HA would ensure that the medical practitioners so employed had attained the required medical standard for performing frontline clinical work independently. The selection panel would consist of representatives from the relevant constituent colleges of the Academy of Medicine and the Coordinating Committees of respective specialties of HA.

18. SFH stressed that while locally trained graduates would continue to be the bedrock of the workforce of the public healthcare system, the above arrangement could provide flexibility for HA to ease its medical manpower shortage in the short term. When the local medical supply was adequate, HA would no longer need to employ non-locally trained medical practitioners under limited registration. It should also be noted that in the meantime, HA had made every effort to retain its existing medical staff, re-employ suitable retirees, recruit part-time doctors and tap on the capacity of

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the private healthcare sector through the introduction of public-private partnership programmes to help meet the service demand.

19. Mrs Regina IP enquired about the shortage of medical practitioners in HA and the expected number of non-locally trained medical practitioners to be employed by HA if the validity period of limited registration was extended to not exceeding three years. SFH advised that there were about 6 000 medical practitioners in HA. HA had recorded an average shortage of 4% to 5% (i.e. about 300) medical practitioners. At present, HA had employed about 10 non-locally trained medical practitioners with limited registration to address manpower shortage. It was hoped that the number of medical practitioners working in public hospitals under limited registration could be increased to about 50 after the passage of the 2017 Bill.

20. Dr Pierre CHAN was concerned that while there was an increase in the number of publicly-funded degree places in medicine in recent years, the Administration had not increased its recurrent subvention to HA. He doubted whether HA could employ all fresh local medical graduates when the supply went up in the years to come. Pointing out that there were non-locally trained medical practitioners with limited registration employed by HA who had served in HA for more than 10 or 20 years, he cast doubt as to whether the arrangement was a flexible short-term approach to address manpower shortage in HA. Against the above, he expressed reservations about the legislative proposal to extend the validity and renewal periods of limited registration to not exceeding three years, which was same as the legislative proposal put forth under the 2016 Bill and was another main controversy during the scrutiny of the Bill.

21. SFH advised that HA only employed non-locally trained medical practitioners under limited registration on a need basis. Any applications for limited registration and the renewal of such registration had to be approved by the Medical Council. It was expected that when there was adequate supply of local medical graduates, the duties performed by the medical practitioners with limited registration employed by HA for addressing the problem of manpower shortage could be taken over by the qualified local graduates. He stressed that it was the Government's policy that the public healthcare sector would endeavour to employ all fresh local medical graduates to provide training opportunities for these graduates.

22. Dr Pierre CHAN pointed out that most non-locally trained medical practitioners with limited registration were not employed by HA but the two universities. These medical practitioners had no help to ease the heavy work pressure of frontline medical practitioners working in public hospitals.

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Dr KWOK Ka-ki noted with concern that the Mainland ranked the second amongst the places where the non-locally trained medical practitioners with limited registration employed by the two universities received their medical training. Dr Pierre CHAN expressed a similar concern, adding that more than half of the candidates who sat the Licensing Examination of the Medical Council during the period of 2012 to 2016 acquired their medical qualifications from the Mainland. Mrs Regina IP sought information about the number of non-locally trained medical practitioners with limited registration being employed by the prescribed institutions and the places where these medical practitioners received medical training.

23. SFH and PSFH(H) advised that as set out in Annex E to the LegCo Brief, the non-locally trained medical practitioners employed by HA so far for addressing manpower shortage obtained their specialty qualifications from Australia, Canada, New Zealand, UK and the United States. While the employment of non-locally trained medical practitioners with limited registration by HA was for the purpose of addressing manpower shortage, the employment of such medical practitioners by HKU and CUHK was for the purpose of teaching, research or performing hospital work at the Faculty of Medicine concerned.

Conclusion

24. In closing, the Chairman said that the 2017 Bill would be subject to further deliberation and examination by the Bills Committee to be formed to study the Bill.

II. Any other business

25. There being no other business, the meeting ended at 4:00 pm.