

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1523/17-18

(These minutes have been  
seen by the Administration)

Ref : CB2/SS/8/17

**Subcommittee on Medical Council  
(Election and Appointment of Lay Members) Regulation**

**Minutes of the second meeting  
held on Wednesday, 23 May 2018, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

**Members present :** Hon Alice MAK Mei-kuen, BBS, JP (Chairman)  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon CHAN Han-pan, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Dr Hon Pierre CHAN  
Hon Vincent CHENG Wing-shun, MH

**Members absent :** Hon Kenneth LEUNG  
Dr Hon KWOK Ka-ki  
Dr Hon Helena WONG Pik-wan  
Hon HO Kai-ming  
Hon LAU Kwok-fan, MH

**Public Officers attending :** Mr FONG Ngai  
Deputy Secretary for Food and Health (Health) 3  
Food and Health Bureau

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

Miss Natalie LAU Wai-kwan  
Assistant Secretary for Food and Health (Health) 3A  
Food and Health Bureau

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

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

Miss Bonita WONG Man-yin  
Government Counsel  
Department of Justice

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

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Ms Priscilla LAU  
Council Secretary (2) 5

Miss Maggie CHIU  
Legislative Assistant (2) 5

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Action

**I. Meeting with the Administration**

[File Ref: L.N. 67 of 2018, FH CR 1/F/3261/92 Pt. 31, LC Paper Nos. LS54/17-18, CB(2)1427/17-18(01) to (02)]

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

Examination of sections of the Medical Council (Election and Appointment of Lay Members) Regulation

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2. The Subcommittee completed examination of the sections of the Medical Council (Election and Appointment of Lay Members) Regulation ("the Regulation").

Action  
Admin

3. The Chairman requested the Administration to provide, as soon as possible, its written response to the letter dated 21 May 2018 from the Legal Adviser to the Subcommittee concerning the legal and drafting aspects of the Regulation.

#### Way forward and the legislative timetable

4. Members noted that pursuant to the decision of the Subcommittee on 17 May 2018, the Chairman would move a motion at the Council meeting of 23 May 2018 to extend the scrutiny period of the Regulation to the Council meeting of 20 June 2018. Subject to the extension of the scrutiny period of the Regulation, the deadline for giving notice of amendment to the Regulation was 12 June 2018.

*[Post-meeting note: The resolution to extend the scrutiny period of the Regulation to the Council meeting of 20 June 2018 was passed at the Council meeting of 23 May 2018.]*

5. The Chairman suggested that the Administration's written response referred to paragraph 3 above would be circulated to members for consideration when available. Subject to any views members might have on the Administration's written response and whether the Administration would propose any amendments to the Regulation, she would decide whether a further meeting was necessary. To allow time for the Administration to draw up the written response, the meeting scheduled for 29 May 2018 would be cancelled. Members raised no queries.

6. Members agreed that if no further meeting needed to be held, the Subcommittee would complete scrutiny of the Regulation. The Chairman would then report the deliberations of the Subcommittee to the House Committee on 8 June 2018.

#### Gazettal of the commencement notice for the Regulation

Admin

7. Members noted that pursuant to section 1 of the Regulation, the Regulation would come into operation on a day to be appointed by the Permanent Secretary for Food and Health (Health) by notice published in the Gazette. The Administration advised that its plan was to, upon the expiry of the scrutiny period of the Regulation, publish, the latest, on 29 June 2018 a notice in the Gazette for appointing the day of commencement of the Regulation. To kick start the election process as soon as possible, while the commencement notice would be subject to negative vetting by the Legislative Council, the commencement date of the Regulation would be the gazettal date of the notice. The Secretariat of the Medical Council of Hong

Action

Kong would immediately start the preparation work for the first election of specified lay members. Members raised no query on the above arrangements.

**II. Any other business**

8. There being no other business, the meeting ended at 9:25 am.

Council Business Division 2  
Legislative Council Secretariat  
4 June 2018

**Proceedings of the second meeting of  
the Subcommittee on Medical Council  
(Election and Appointment of Lay Members) Regulation  
held on Wednesday, 23 May 2018, at 8:30 am  
in Conference Room 2 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
<i>Agenda item I: Meeting with the Administration</i>			
001410 - 001529	Chairman	Opening remarks	
001530 - 002127	Chairman Admin	Briefing by the Administration on the Medical Council (Election and Appointment of Lay Members) Regulation ("the Regulation").	
002128 - 002512	Chairman Mr CHAN Han-pan Admin	<p>Mr CHAN Han-pan's enquiry as to whether various patient groups formed under a single umbrella patient organization, which had been a company or a society carrying on activities to safeguard or represent the interests of patients throughout the two years immediately before the end of the applicable registration application period, would meet the eligibility requirements for registration as an elector for the election (other than the first election) of the specified lay members of the Medical Council of Hong Kong ("the Medical Council").</p> <p>The Administration's advice that section 4 of the Regulation had provided for the eligibility requirements for registration. Apart from the above requirement, an organization had to be, among others, recognized by a reference authority as set out under section 4(2) as an organization that safeguarded or represented the interests of patients. As a reference, the respective numbers of patient organizations currently providing advice under the network of the Hospital Authority, engaging by the Community Rehabilitation Network under the Hong Kong Society for Rehabilitation, and receiving funding support under the Financial Support Scheme for Self-help Organizations of Persons with Disabilities/Chronic Illnesses of the Social Welfare Department were about 200, 100 and 80.</p>	
002513 - 002829	Chairman Dr Pierre CHAN Admin	<p>Dr Pierre CHAN's questions about:</p> <p>(a) whether self-help patient organizations would be regarded as safeguarding or representing the interests of patients as required for, among others, being eligible for registration as an elector for the election of the specified lay members of the Medical Council; and</p> <p>(b) the handling of circumstance whereby a person holding multiple membership in various patient organizations that were registered as an elector and eligible for subscribing nominations for candidates and casting vote(s) at an election.</p> <p>The Administration's advice that the registration application was entity-based, not membership-based. Any organizations whose principle objective was to help and support patients would be regarded as an organization safeguarding or representing the</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		interests of patients. In considering an application for registration as an elector, it was the entity, principle objective and activities, but not the membership, of an organization that counted.	
002830 - 002909	Chairman	Commencement of examination of the sections of the Regulation	
002910 - 003009	Chairman Admin	<u>Examination of sections 1 and 2</u>	
003010 - 003520	Chairman Admin ALA6	<u>Examination of sections 3 to 8</u>  In response to the Chairman's enquiry, the Administration affirmed that an organization had to meet all the requirements stipulated in section 4(1) of the Regulation in order to be eligible for registration as an elector.  Legal Adviser to the Subcommittee's remarks that under section 5(7) of the Regulation, a determination of the Permanent Secretary for Food and Health (Health) on an application by an organization for registration as an elector was final. An aggrieved applicant had to apply for judicial review to challenge the decision.	
003521 - 003557	Chairman Admin	<u>Examination of section 9</u>	
003558 - 003914	Chairman Admin	<u>Examination of sections 10 to 16</u>  In response to the Chairman's enquiry, the Administration's advice that there was no requirement under section 10 of the Regulation that a person had to be a representative of a patient organization in order to be eligible for nomination as a candidate at an election.	
003915 - 004101	Chairman Admin	<u>Examination of sections 17 to 20</u>	
004102 - 004551	Chairman Admin	<u>Examination of sections 21 to 31</u>	
004552 - 004650	Chairman Admin	<u>Examination of sections 32 to 33</u>	
004651 - 004659	Chairman Admin	<u>Examination of section 34</u>	
004700 - 005105	Chairman Admin ALA6	<u>Examination of sections 35 to 45</u>  Legal Adviser to the Subcommittee's remarks that under section 43(2) of the Regulation, a determination of the Medical Council on an election petition was final. An aggrieved petitioner had to apply for judicial review to challenge the decision.	
005106 - 005439	Chairman Admin	<u>Examination of section 46</u>  The Chairman's concern about the making of nominations of candidates under section 46(2)(b) of the Regulation to fill a vacancy of an office of a specified lay member where the unexpired term of	

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		<p>the office was less than one year when the office became vacant if, for whatever reason, all the lay members of the Medical Council described in section 3(2)(g), (ga) and (gb) of the Medical Registration Ordinance (Cap. 161) ("the Ordinance") had resigned.</p> <p>The Administration's advice that in such an extreme case, the Chief Executive could, as soon as possible, first make appointments to fill the vacancies in the offices of the lay members described in section 3(2)(g) of the Ordinance. The Secretary of the Medical Council would then invite these lay members to make nominations.</p>	
005440 - 005537	Chairman Admin	<u>Examination of section 47</u>	
005538 - 005608	Chairman Admin	<u>Examination of Schedule to the Regulation</u>	
005609 - 005849	Chairman Admin	<p>Way forward</p> <p>Legislative timetable</p> <p>Gazettal of the commencement notice for the Regulation</p>	
<i>Agenda item II: Any other business</i>			
005850 - 005859	Chairman	Closing remarks	

Council Business Division 2  
Legislative Council Secretariat  
4 June 2018