

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

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information and summarizes relevant discussions of members of the Bills Committee on Medical Registration (Amendment) Bill 2017 ("the Bills Committee") on issues relating to the election and appointment of the three lay members of the Medical Council of Hong Kong ("the Medical Council") to be elected by patient organizations.

Background

2. The Medical Council is a statutory body established under the Medical Registration Ordinance (Cap. 161) ("the Ordinance"). Its major functions include, among others, maintaining a register of eligible medical practitioners; administering the Licensing Examination; determining and promulgating from time to time the employment or type of employment in respect of which limited registration is appropriate or necessary; handling complaints received against registered medical practitioners; conducting investigations into allegations of professional misconduct; and taking disciplinary actions.

3. Following the passage of the Medical Registration (Amendment) Bill 2017¹ by the Legislative Council ("LegCo") on 28 March 2018, the Medical Registration (Amendment) Ordinance 2018 (Ord. No. 15 of 2018) ("the Amendment Ordinance") was enacted on 6 April 2018. Under the Amendment

¹ The Medical Registration (Amendment) Bill 2017 seeks to amend the Ordinance and three items of its subsidiary legislation to, among others, change the composition of the Medical Council.

Ordinance, the number of lay members of the Medical Council increases from four² to eight, making the total number of members of the Medical Council increased from 28 to 32. Among the four additional lay members, three of them are to be elected to the Medical Council by patient organizations recognized by the Permanent Secretary for Food and Health (Health) ("the Permanent Secretary") under a regulation to be made by the Permanent Secretary under section 33(3A) of the Amendment Ordinance ("specified lay members").³

Medical Council (Election and Appointment of Lay Members) Regulation

4. On 27 April 2018, the Administration published in the Gazette the Medical Council (Election and Appointment of Lay Members) Regulation ("the Regulation"). The Regulation is made by the Permanent Secretary under section 33(3A) of the Ordinance to provide for the procedure and other matters in relation to an election or appointment to an office of the three lay members of the Medical Council representing the interests of patients. The key arrangements are set out in Annex B to the Legislative Council Brief (File Ref: FH CR 1/F/3261/92 Pt. 31).

5. The Regulation was tabled before LegCo at its meeting of 2 May 2018 and is subject to negative vetting by LegCo. It will come into operation on a day to be appointed by the Permanent Secretary by notice published in the Gazette.

Deliberations of the Bills Committee

6. The Bills Committee was briefed on the framework of the Regulation. The deliberations and concerns of members are summarized in the following paragraphs.

7. Members noted that each elector eligible for electing the specified lay members might nominate one candidate for election in accordance with its own rules and each elector would be entitled to up to three votes according to the number of vacancies. The three candidates who obtained the greatest number of votes would be elected. The specified lay members so elected would hold office for three years from the date of notification in the Gazette of the member's election. Some members expressed concern about whether the eligibility

² These four lay members are to be appointed by the Chief Executive.

³ The other lay member is to be nominated by the Consumer Council.

requirements for being an elector in these elections could prevent vote-rigging and ensure that the representatives so elected truly represented the interests of patients.

8. The Administration advised that an organization that wished to be an elector would have to make an application to the Permanent Secretary and prove to the satisfaction of the Permanent Secretary that it met all of the following requirements:

- (a) the organization is either a company as defined by section 2(1) of the Companies Ordinance (Cap. 622) or a society, or a branch of a society, registered under section 5A(1) of the Societies Ordinance (Cap. 151);
- (b) the principle objective of the organization is to safeguard or represent patients' interests;
- (c) the organization has incorporated or registered under the Companies Ordinance or the Societies Ordinance for at least two years immediately before the application and has been carrying on activities to safeguard or represent patients' interests; and
- (d) the organization is recognized by or registered with an overseeing or management authority which includes the Hospital Authority, the Social Welfare Department, the Hong Kong Society for Rehabilitation,⁴ and any other entity recognized and accepted by the Permanent Secretary.

9. The Administration further advised that provisions against corrupt and illegal conduct would be included in the new regulation to be made by the Permanent Secretary to provide for the procedure and other matters relating to the election and appointment of the specified lay members, stipulating that a person would be disqualified from being nominated in an election or holding

⁴ According to the Administration, there were currently over 200 patient-related organizations or groups providing advice on service developments and patient support services under the network of the Hospital Authority. The Community Rehabilitation Network was a community-based rehabilitation service under the Hong Kong Society for Rehabilitation to assist persons with visceral disability or chronic illness and their families. It engaged over 160 organizations or groups. Since 2001, the Social Welfare Department had been providing financial support to self-help organizations of persons with disabilities or chronic illness aiming at promoting the spirit of self-help and mutual help among persons with disabilities and their families. In 2016-2018, 82 organizations or groups received funding support under the Financial Support Scheme for Self-help Organizations of Persons with Disabilities/Chronic Illnesses.

office if he or she engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). The new regulation would also provide for arrangements for election petition. There was a view that an appeal mechanism should be put in place to enable an organization to appeal against the decision of the Permanent Secretary on whether an organization met the eligibility requirements for electors.

10. There was a concern about the nomination for appointment of a person to fill a vacancy of an office of a specified lay member where the unexpired term of the office was less than one year when the vacancy arose. According to the Administration, the lay members of the Medical Council would be invited to make nominations of candidates for appointment as a specified lay member. The Permanent Secretary would consider whether the nominated candidates represented the interest of patients.

11. At the request of the Bills Committee, the Administration had consulted key patient organizations on its proposed regulatory framework for the election of the specified lay members. According to the Administration, the major patient organizations generally agreed with the proposal. It was expected that the Medical Council Secretariat would start the election work of the first election within 15 weeks upon the expiry of the scrutiny period of the new regulation.

Relevant papers

12. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
21 May 2018

Appendix

Relevant papers on the issues relating to the election and appointment of the three lay members to be elected by patient organizations

Committee	Date of meeting	Paper
Bills Committee on Medical Registration (Amendment) Bill 2017	-	Report

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