

立法會
Legislative Council

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by the Administration)

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Bills Committee on Medical Registration (Amendment) Bill 2021

Minutes of the fifth meeting
held on Tuesday, 7 September 2021, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon Elizabeth QUAT, BBS, JP (Chairman)
Hon SHIU Ka-fai, JP (Deputy Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, SBS
Hon Alice MAK Mei-kuen, BBS, JP
Ir Dr Hon LO Wai-kwok, GBS, MH, JP
Hon CHUNG Kwok-pan
Dr Hon Junius HO Kwan-yiu, JP
Dr Hon Pierre CHAN
- Member absent** : Dr Hon CHIANG Lai-wan, SBS, JP
- Member attending** : Hon CHAN Han-pan, BBS, JP
- Public Officers attending** : Dr CHUI Tak-yi, JP
Under Secretary for Food and Health
Food and Health Bureau

Ms Shirley KWAN Yu-pik
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

Dr Edmund FONG Ho-ching
Principal Medical & Health Officer
(Service and Manpower Planning)
Department of Health

Ms Fionne TSE Suk-yee
Deputy Secretary (Medical Council)3
Department of Health

Dr Deacons YEUNG
Director (Cluster Services)
Hospital Authority

Dr Sharon WONG
Chief Manager (Medical Grade)
Hospital Authority

Ms Amy CHAN Wing-yan
Senior Assistant Law Draftsman
Department of Justice

Ms Carmen CHAN Ka-man
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (4) 3

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Miss Natalie YEUNG
Council Secretary (4) 3

Miss Ariel SHUM
Legislative Assistant (4) 3

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I. Meeting with the Administration

[LC Paper Nos. CB(3)577/20-21, CB(4)1148/20-21(01), FH CR 1/F/3261/92, LS77/20-21, CB(4)1148/20-21(02), CB(4)1157/20-21(01), CB(4)1275/20-21(01), CB(4)1476/20-21(01), CB(4)1487/20-21(01), CB(4)1490/20-21(01) and CB(4)1492/20-21(01)]

(Index of proceedings of the meeting is attached at the **Annex**.)

Arrangement for submitting proposed amendments to the Bill for consideration by the Bills Committee

Regarding the deadline for members to submit their proposed amendments to the Bill for consideration by the Bills Committee which was set at two days after the Administration announced its proposed amendments thereto, a concern was raised that the short duration might not give members sufficient time to prepare and submit their proposed amendments to the Bill having regard to the Administration's proposed amendments. The Chairman responded that the deadline was set in view of the tight meeting schedule. She reminded members that, irrespective of whether their proposed amendments to the Bill had been submitted for consideration by the Bills Committee, they could give notices to move their proposed amendments at the Council meeting at which the Second Reading debate on the Bill resumed.

Special Registration Committee

Directives issued by the Secretary for Food and Health to the Special Registration Committee

2. According to the proposed new section 14F(4) of the Medical Registration Ordinance (Cap. 161) as added by the Bill, if the Secretary for Food and Health ("SFH") considered that the public interest so required, he/she might issue directives to the Special Registration Committee ("SRC") about SRC's performance of its functions under Cap. 161. The Administration was requested to explain the circumstances under which SFH would do so.

3. The Administration explained with an example that if SRC failed to draw up the list of recognized medical qualifications within a reasonable period of time, SFH could issue a directive to SRC, requiring the latter to complete such work within a specified timeframe.

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Casting vote of the chairperson of the Special Registration Committee

4. A question was raised as to why the chairperson of SRC had a deliberative vote and a casting vote if the number of votes for and against a motion was equal, pursuant to the proposed new section 14G(4) of Cap. 161.

5. The Administration explained that it had made reference to the existing arrangement of the Medical Council of Hong Kong ("MCHK") in drawing up the provision on the voting rights of the chairperson of SRC.

Negative vetting procedure for future amendments to proposed new Schedules

Amending proposed new Schedule 1B to Cap. 161 concerning the list of specified institutions

6. Assistant Legal Adviser 6 ("ALA6") pointed out that section 14B(1) of Cap. 161 currently provided for the temporary registration of a person who would be engaged exclusively in performing clinical teaching or research for an institution specified in section 14B(2) of Cap. 161. Section 14B(2) contained four institutions, which were exactly the same as those listed in the proposed new Schedule 1B to Cap. 161 (i.e. "specified institutions"). The effect of clause 7 of the Bill which proposed to amend section 14B of Cap. 161 (together with the proposed new section 14I under clause 8 of the Bill) was that future amendments to the specified institutions concerned (in which doctors with special registration would have to serve for a requisite minimum period) would be made by subsidiary legislation subject to scrutiny by the Legislative Council ("LegCo") pursuant to the negative vetting procedure, instead of by a bill to be introduced into LegCo.

7. Some members questioned the rationale for adopting the negative vetting procedure instead of the positive vetting procedure and enquired whether the Administration intended to add any institutions to the proposed new Schedule 1B in the future. They pointed out that there were medical schools run by local universities newly established/to be established in the Mainland and asked whether these medical schools would be added to the list of specified institutions, which might give rise to concerns and need deliberations by LegCo. They also took the view that if the negative vetting procedure was adopted, members might not have sufficient time to examine the subsidiary legislation concerned.

8. The Administration explained that it did not expect the listing of specified institutions to be controversial, and thus proposed adopting the negative vetting procedure to streamline the legislative process and yet

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without compromising the scrutiny power of LegCo. The Administration had no plan for the time being to make any addition to the list and stressed that Cap. 161 regulated registration of doctors practising in Hong Kong only.

Amending the proposed new Schedule 1A to Cap. 161 concerning the list of recognized medical qualifications

9. ALA6 pointed out that under the proposed new section 14H of Cap. 161, once the Registrar of Medical Practitioners ("Registrar") received SRC's recommendation on the medical qualifications to be, or no longer to be, recognized for the purposes of the proposed new section 14C of Cap. 161 (i.e. the special registration scheme), the Registrar must recognize, or revoke the recognition of, the medical qualifications by amending the proposed new Schedule 1A to Cap. 161 by notice published in the Gazette. Such notice would be subsidiary legislation subject to scrutiny by LegCo pursuant to the negative vetting procedure.

10. Noting that pursuant to section 8(2) of Cap. 161, MCHK might, with the prior approval of LegCo, by notice in the Gazette, amend Schedule 1 to Cap. 161 which contained the list of local universities which might award recognized medical qualifications for full registration as a medical practitioner in Hong Kong (i.e. the positive vetting procedure), an enquiry was made by ALA6 with the Administration as to why the negative vetting procedure (instead of the positive vetting procedure) was proposed for amending the proposed new Schedule 1A to Cap. 161. Further, as stated in paragraph 15 of the LegCo Brief on the Bill, there would not be any discretionary power for the Registrar to vary the list so recommended by SRC. An enquiry was made by her with the Administration as to its view on whether the power of LegCo to amend, including repeal, such a notice under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) would have been displaced.

11. Some members raised concern about the use of the negative vetting procedure which, in their view, would not allow adequate time for deliberation by LegCo. While some members had reservations on such approach, some other members considered the approach a recognition of professional autonomy.

12. The Administration explained that upon receipt of the recommended list of recognized medical qualifications from SRC, the Registrar would promulgate the list by legal notice. As the list would be determined by SRC with due regard to the parameters laid down in the proposed new section 14F(3) of Cap. 161, which was now subject to LegCo's scrutiny, for streamlining of the subsequent legislative process and yet without

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compromising the scrutiny power of LegCo, the Administration had proposed that the list so drawn up be subject to negative vetting by LegCo.

13. The Administration further explained that LegCo retained full power to decide whether or not to enact the proposed new section 14H of Cap. 161 and the power to be given to the delegated authority (i.e. the Registrar). Once LegCo had stipulated the ambit of the power of the Registrar to make the subsidiary legislation by enacting the proposed new section 14H, LegCo was bound to respect the ambit in exercising its negative vetting power under the section. Since under the proposed new section 14H, the Registrar must by notice (being a piece of subsidiary legislation) publish the list of recognized medical qualifications in the Gazette after receiving the recommendation made by SRC (i.e. no discretionary power for the Registrar to vary the list) and given the principle under Cap. 1 that any amendment to be made by LegCo had to be consistent with the power to make the subsidiary legislation, LegCo would likewise have no power to amend or repeal the notice, except for the commencement date thereof.

Arrangement for doctors with special registration to work in private hospitals

14. Given that doctors with special registration would be engaged as medical practitioners only in the specified institutions mentioned in the persons' applications for the grant or renewal of the special registration, a member pointed out that the two local medical schools had their own affiliated private hospitals in which doctors with special registration might practise. Such arrangement might deviate from the object of the Bill to alleviate the workload of doctors in the public healthcare sector. Some other members opined that the private sector also lacked doctors and such arrangement could allow doctors with special registration to acquire clinical experience.

15. The Administration responded that doctors with special registration must be employed by the specified institutions including the two local medical schools (but not their affiliated private hospitals) and were obliged to observe the terms of their employment contracts. Nonetheless, they might be allowed by their contracts to provide medical services in the affiliated private hospitals for a certain proportion of their service time. Similar arrangements could also be found under the limited registration scheme. The Administration assured members that it would monitor the provision of private services by doctors with special registration and ensure that they would mainly work in the specified institutions.

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Factors for consideration in determining the list of recognized medical qualifications

16. Some members indicated that some medical schools outside Hong Kong might have their affiliated or parent medical school(s). For instance, The School of Medicine of The Chinese University of Hong Kong ("CUHK"), Shenzhen was affiliated with CUHK. They enquired whether or not the international ranking of one school would be shared by its affiliated school(s) when SRC determined the list of recognized medical qualifications. Some other members queried which index(indices) SRC would make reference to and whether integrated rankings of a medical school or specific rankings categorized by specialties would be considered.

17. The Administration responded that it would be for SRC to decide whether or not a medical qualification would be recommended for recognition for the purposes of special registration. Apart from international rankings, SRC would also take into account the curriculum concerned, medium of instruction of the programmes, and other aspects SRC considered appropriate when determining the list of recognized medical qualifications.

Differentiation between "recognized medical qualification" and "medical qualification acceptable to the Medical Council of Hong Kong"

18. The Administration was requested to explain the definitions of, and to differentiate between, "recognized medical qualification" (as stipulated in the proposed new section 14C(3)(b) of Cap. 161 under clause 8 of the Bill) and "medical qualification acceptable to the Medical Council of Hong Kong" (as stipulated in the current section 7A(1)(b)(i) of Cap. 161). The former term also appeared in a new clause 5A(5) proposed to be added to the Bill in the Administration's proposed amendments to the Bill. Concern was raised that the similarity in the wording of the two terms might cause confusion.

19. The Administration responded that the meaning of "recognized medical qualification" was set out in the proposed new section 14D of Cap. 161 under clause 8 of the Bill, which was different from the meaning of "medical qualification acceptable to the Medical Council of Hong Kong". The list of recognized medical qualifications would be promulgated by legal notice. The Administration did not foresee a high possibility of confusion.

Information disclosed in the General Register

20. Some members questioned what kind of information would be disclosed in the General Register (i.e. the register kept by the Registrar in accordance with section 6(1) of Cap. 161) and whether it was accessible by

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the public. They also asked whether disclosure of information such as doctors' addresses would give rise to privacy concerns.

21. The Administration advised that the General Register was published in the Gazette and doctors could choose to provide their residential addresses, practising addresses or Post Office Box numbers.

Mr SHIU Ka-fai's proposed amendments to the Bill

22. Members noted Mr SHIU Ka-fai's proposals to amend the Bill to the effect that in addition to the Administration's proposed amendments thereto:

- (a) a non-Hong Kong permanent resident ("non-HKPR") holding a recognized medical qualification who was a child born of an HKPR or a spouse of an HKPR but had not held an overseas specialist qualification, could also receive specialist training and practise in Hong Kong through the special registration scheme;
- (b) a non-HKPR medical graduate holding a recognized medical qualification who was a child born of an HKPR or a spouse of an HKPR but had not undergone internship, could also be eligible to take the Licensing Examination and, if passed, undergo internship and receive specialist training and practise in Hong Kong through the special registration scheme; and
- (c) a person who did not hold a recognized medical qualification but had been engaged in full-time employment as a clinical instructor in a programme offered by a body awarding medical qualifications as specified in column 3 of Part 1 of the proposed new Schedule 1A to Cap. 161, or a specialist doctor who being a medical practitioner worked in one or more hospitals affiliated to those bodies specified therein, could also practise in Hong Kong through the special registration scheme.

23. The Administration considered that its proposals, consisting of three major changes, had comprehensively responded to views from members and

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patient groups on widening the pool of eligible non-locally trained doctors. It also took the view that the additional number of doctors attracted by Mr SHIU Ka-fai's proposals would be small and internship opportunities which involved public resources should be reserved for HKPRs only. For doctors who did not possess recognized medical qualifications, they could still take the pathway of limited registration and then migrate to the special registration scheme subject to certain criteria being met thereafter.

24. Regarding Mr SHIU Ka-fai's proposals mentioned in paragraph 22(a) and (b) above, some members were of the view that the number of persons benefitted would be rather small, given that children of HKPRs born outside Hong Kong also enjoyed HKPR status by law. The chances of them returning to Hong Kong to practise might not be great either. These members therefore did not support such proposals. As to the proposal mentioned in paragraph 22(c) above, some members opined that it would complicate the work of SRC (e.g. examining whether individual applicants were involved in any past medical incidents). Considering that the Administration's proposed amendments to the Bill would have considerably extended the coverage of the special registration scheme, some other members had doubts on the necessity of further extending the coverage. Some other members, however, supported the amendments in the hope of attracting more doctors to Hong Kong. Given that there was no consensus among members on whether the Bills Committee should take over Mr SHIU's proposed amendments, the Bills Committee agreed not to do so.

II. Any other business

25. There being no other business, the meeting ended at 6:24pm.

Council Business Division 4
Legislative Council Secretariat
15 December 2021

**Annex for proceedings of the fifth meeting of the
Bills Committee on Medical Registration (Amendment) Bill 2021
on Tuesday, 7 September 2021, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
Agenda item I - Meeting with the Administration			
000507-001149	Chairman Dr Pierre CHAN Dr Junius HO	Arrangement for submitting proposed amendments to the Bill for consideration by the Bills Committee	
001150-001701	Chairman Administration	Clause-by-clause examination of the Bill <u>Clause 1 – Short title</u> <u>Clause 2 – Enactments amended</u> <u>Clause 3 – Section 2 amended (interpretation)</u> <u>Clause 4 – Section 3 amended (establishment and composition of Council)</u> <u>Clause 5 – Section 6 amended (registers)</u> <u>Clause 6 – Section 8 amended (qualification for registration under section 14)</u>	
001702-002723	Administration Assistant Legal Adviser 6 ("ALA6") Dr Pierre CHAN Chairman Mr SHIU Ka-fai	<u>Clause 7 – Section 14B amended (temporary registration)</u> <i>Negative vetting procedure for amendments to the proposed new Schedule 1B</i>	
002724-003551	Administration Dr Pierre CHAN ALA6 Chairman Mr Tommy CHEUNG	<u>Clause 8 – Sections 14C to 14I added</u> <i>Differentiation between "recognized medical qualification" and "medical qualification acceptable to the Medical Council of Hong Kong"</i>	
003552-005119	Administration Dr Pierre CHAN Mrs Regina IP Mr Tommy CHEUNG Chairman	<i>Arrangement for doctors with special registration to work in private hospitals</i>	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
005120-005828	Administration Dr Pierre CHAN Ms Alice MAK Mrs Regina IP Mr Tommy CHEUNG	<i>Factors for consideration in determining the list of recognized medical qualifications</i>	
005829-010213	Administration Dr Pierre CHAN	<i>Directives issued by the Secretary for Food and Health to the Special Registration Committee</i> <i>Casting vote of the chairperson of the Special Registration Committee</i>	
010214-011509	Administration ALA6 Dr Pierre CHAN Mr Tommy CHEUNG	<i>Negative vetting procedure for amendments to proposed new Schedule 1A</i>	
011510-011910	Administration Mrs Regina IP Dr Pierre CHAN Chairman	<u>Clause 9 – Section 15 amended (publication of General Register and evidence of registration, etc.)</u> <i>Information disclosed in the General Register</i> <u>Clause 10 – Section 20A amended (medical practitioner not to practise without practising certificate)</u> <u>Clause 11 – Schedule 1 amended (universities in Hong Kong specified under section 8)</u>	
011911-012153	Administration	<u>Clause 12 – Schedules 1A and 1B added</u> <u>Clause 13 – Section 5 amended (qualifications of electors, proposers and seconders)</u> <u>Clause 14 – Schedule amended (fees)</u> <u>Clause 15 – Section 3 amended (application for registration)</u>	
012154-012859	Chairman Administration Dr Pierre CHAN	Examination of the Administration's proposed revisions to the Bill <i>Differentiation between "recognized medical qualification" and "medical qualification acceptable to the Medical Council of Hong Kong"</i>	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
012900-015544	Chairman Mr SHIU Ka-fai Mr Tommy CHEUNG Mrs Regina IP Dr Pierre CHAN Dr LO Wai-kwok Dr Junius HO Administration	Mr SHIU Ka-fai's proposed amendments to the Bill	
015545-015825	Chairman ALA6 Mr Tommy CHEUNG Dr Junius HO	Follow-up arrangements	
Agenda item II: Any other business			
015826-015835	Chairman	Closing Remarks	