



中華人民共和國香港特別行政區政府總部醫務衛生局
Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our Ref. : HHB CR 1/3261/21 Pt.6

Tel : 3509 8701

Your Ref. :

Fax : 2840 0467

12 May 2025

Ms. Doreen WAN
Assistant Legal Adviser 9
Legislative Council Secretariat Legal Service Division
Legislative Council Complex
1 Legislative Council Road
Hong Kong

Dear Ms Wan,

Re: Supplementary Medical Professions (Amendment) Bill 2025

I refer to your letter dated 22 April 2025. In respect of the legal issues you raised, our responses are set out at **Annex** for reference.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emmanuel LAM'.

(Emmanuel LAM)
for Secretary for Health

c.c.

Department of Justice (Attn: Ms Natalie Lam and Miss Natalie Wong)

Clerk to Bills Committee on Supplementary Medical Professions (Amendment) Bill 2025

Commencement (clause 1(2) to (4) of the Bill)

1. According to clause 1(2) of the Bill, the Bill (if passed) would come into operation on the day on which it is published in the Gazette, except those clauses set out in clause 1(3) and (4) of the Bill. Under clause 1(3) and (4), those excepted clauses are:
 - (a) clauses 5(2), 7, 8(1) to (6) and (8), 10(1) to (11), 35 (in so far as it relates to Division 1 of Part 3 of the proposed new Schedule 3 to the Supplementary Medical Professions Ordinance (Cap. 359)), 36(1), 65(1), 94(1), 123(1), 155(1) and 200 of the Bill, which would come into operation on 1 January 2026 (mainly relating to the composition of the Supplementary Medical Professions Council (proposed to be renamed to “Allied Health Professions Council” under the Bill) (“Council”) and the boards and related matters); and
 - (b) clause 153(1) of the Bill, which would come into operation on the day on which section 82 of the Dentists Registration (Amendment) Ordinance 2024 (Ord. No. 22 of 2024) (in so far as it relates to the service specified in paragraph (c) in column 3 of Part 1 of Schedule 3 to the Dentists Registration Ordinance (Cap. 156) in respect of the dental hygienist and dental therapist respectively) comes into operation (relating to certain exemptions for a registered dental hygienist or dental therapist).

Please advise Members, in respect of those excepted clauses as referred to in paragraph 1(a) above, reason(s) for the proposed commencement plan, and in respect of clause 153(1) as referred to in paragraph 1(b) above, the proposed commencement plan of the relevant part of section 82 of Ord. No. 22 of 2024 and reason(s) for the plan.

Response:

The clauses of the Bill mentioned in para. 1(a) are all relevant to the amended compositions of the Supplementary Medical Professions Council (“SMPC”) and its Boards. Considering the lead time required for Secretariat to prepare for the transition (including identification of suitable candidates and give time for nominating bodies to put up nomination for

appointment) upon the relevant provisions take effect, we propose to commence the relevant provisions at a later stage on 1 January 2026, at which point the SMPC will be renamed as Allied Health Professions Council.

Clause 153(1) of the Bill provides exemption for registered dental hygienists and dental therapists to take a radiograph for the examination of the mouth, teeth or jaws of a person or their associated structures. This is to align with the service to be provided by the dental care professionals (including dental hygienists and dental therapists) as specified under the new Schedule 3 added to the Dentists Registration Ordinance (Cap. 156) (“DRO”) by the Dentists Registration (Amendment) Ordinance 2024 which has yet to come into operation. Our intention is to dovetail the exemption under clause 153(1) of the Bill with the commencement of the registration regime for dental care professionals under the DRO, so that when the relevant provisions under the DRO takes effect, clause 153(1) of the Bill will also take effect simultaneously without having to commence the provision separately.

The Dental Council of Hong Kong has started preparatory work and will liaise with the sector to explore the implementation of the dental care professional registration regime in 2026.

Composition of Allied Health Professions Council (clause 8(3) of the Bill)

2. Under the proposed amended section 3(1) of Cap. 359, the Council would consist of, among others, one person appointed by the Chief Executive (“CE”) from each profession (totalling five members) (proposed amended section 3(1)(e) of Cap. 359). Please clarify why the Bill does not propose that each of such professional members of the Council would be required to hold a valid practising certificate of his or her own profession for being eligible for the appointment or reappointment under the proposed amended section 3 of Cap. 359. In this connection, reference is drawn to section 4AAD(e) of Cap. 156 (i.e. any dentist member must hold a valid practising certificate for appointment or reappointment as a member of the Dental Council of Hong Kong), and section 3(4B)(e) and (ea) of the Nurses Registration Ordinance (Cap. 164) (i.e. CE may revoke a nurse member’s

appointment to the Nursing Council of Hong Kong if he or she no longer holds a valid practising certificate under Cap. 164).

Response:

For SMPC and the Boards, all relevant professional members are to be considered and appointed by the Chief Executive (“CE”). Under the current section 3(1)(d)(iv) of the Supplementary Medical Professions Ordinance (Cap. 359) (“SMPO”), the SMPC comprises 1 person appointed by the Chief Executive from each profession. Despite not stipulating under the legislation, as a general principle, these appointees must be holder of practising certificates as failure to renew practising certificate for more than six months after its expiration would trigger the mechanism for deregistration under section 10(4) of the SMPO. The composition and appointment arrangement for members of the SMPC and its Boards are different from that of the councils regulating other healthcare professions. The current approach as stipulated in section 3(1) of the SMPO has already reflected the policy intention and should be maintained.

Specified particulars or forms (clauses 14, 16, 18, 24, 27, 52, 56, 81, 85, 111, 114, 141, 145, 171 and 175 of the Bill)

3. It is noted that:

- (a) under the existing section 10(1) and (2) of Cap. 359, each board shall cause a register for the relevant profession to be kept in the “form prescribed”, and the secretary of the board shall insert in the register any alteration or addition which may come to his knowledge to “the name, addresses, or qualifications” of any person registered; clause 14(1) and (2) of the Bill proposes to change those parts in quotes to “specified form” and “the particulars, as specified by the Council” respectively;¹

¹ Please see also the existing regulation 3(1) of the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359A), regulation 3(1) of the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359B), section 3(1) of the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359F), section 3(1) of the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359H) and section 3(1) of the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap.

- (b) under the existing section 13(1) of Cap. 359, a person may apply for registration “in the manner prescribed”, and clause 16(3) of the Bill proposes that the application must be made in the “specified form”;
- (c) under the existing section 14(1) of Cap. 359, a certificate of registration is in the “prescribed form”, and clause 18(2) of the Bill proposes that any such certificate would be in the “specified form”;
- (d) under the existing section 20(3) of Cap. 359, a company carrying on the business of practising a profession shall each year transmit to the secretary of the relevant board a statement in the “prescribed form” containing certain particulars; clause 24(4) of the Bill proposes that such statement should be made in the “specified form”;
- (e) under existing provisions in various items of the subsidiary legislation of Cap. 359,² where a matter is referred to the relevant board for inquiry, the notice of inquiry to be served on the respondent shall be in the prescribed form; clauses 52, 81, 111, 141 and 171 of the Bill propose that such notice of inquiry would be in the “specified form”; and
- (f) under the existing section 23(2) of Cap. 359 and existing provisions in various items of the subsidiary legislation of Cap. 359,³ a summons requiring a person to attend an inquiry e.g. to give evidence shall be in the prescribed form; clauses 27, 56, 85, 114, 145 and 175 of the Bill propose that such summons must be in the “specified form”.

359J); these provisions are proposed to be correspondingly amended by clauses 37, 66, 95, 124 and 156 of the Bill.

² Please refer to the existing regulation 23(1) of Cap. 359A, regulation 23(1) of Cap. 359B, section 23(1)(a) of Cap. 359F, section 26(2)(a) of Cap. 359H and section 23(2)(a) of Cap. 359J.

³ Please refer to the existing regulation 42(2) of Cap. 359A, regulation 42(2) of Cap. 359B, section 42(2) of Cap. 359F, section 45(2) of Cap. 359H and section 42(2) of Cap. 359J.

Please clarify whether the above specified forms and specified particulars (as referred to in paragraph 4(a) above) would not be made by way of subsidiary legislation and thus not subject to the negative vetting procedure of the Legislative Council (“LegCo”) under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) (“negative vetting”) (i.e. LegCo would no longer have the power to amend such forms and particulars). If so, please clarify why such an approach is considered appropriate.

Response:

According to paragraph 7.2.14 of the Law Drafting Division’s publication *Drafting Legislation in Hong Kong – A Guide to Styles and Practices*, the best practice would be to specify forms administratively and not prescribe them legislatively, unless of course because of the nature of the form or for any other reason it should be part of the Laws of Hong Kong. In most cases it may be sufficient to provide that forms may be “specified” by a named official or body. In our case, the particulars and forms identified in paragraphs 3 above are administrative in nature. To align with the current drafting practice, they should therefore not be prescribed legislatively.

Removal from register of relevant board and application for restoration (clause 14(8) and (11) of the Bill)

4. Regarding the existing section 10(4) of Cap. 359 concerning the power of the relevant board to remove the name of any person from its register, please clarify why the situation under the existing section 10(4)(d) would not be retained under the proposed amended section 10(4) (i.e. in respect of a person who is not practising his profession in Hong Kong).

Response:

The proposed amended section 10(4)(c) of the SMPO provides that the Board may remove the name of a registered supplementary medical professional (“SMProf”) from the register if he/she has failed to obtain a practising certificate within 6 months after registration or expiry of his/her

last practising certificate. We consider that such arrangement can already serve the policy intention to allow the SMPC to remove a SMProf who is no longer practising his/her profession in Hong Kong.

5. Under the proposed amended section 10(5) of Cap. 359, a person with full registration or provisional registration whose name is subsequently removed from a register under the proposed amended section 10(4) or the proposed amended section 22 (disciplinary powers of the board) may apply to the relevant board for restoration of his name to the register. As it does not appear that the proposed amended section 10(5) would apply to a person with limited registration (whose registration would be in force until, among others, the removal of the person's name from the register under a direction made under the proposed amended section 10(4) or under an order made under the proposed amended section 22 (see proposed new section 13A(8)(c) and (d) of Cap. 359)), please clarify whether a person with limited registration would not have a similar right to apply for restoration under the Bill, and if so, the reason(s) for it.

Response:

Limited registration ("LR") and temporary registration ("TR") are time-limited arrangement ranging from 14 days to three years. The new sections 13A and 13B of the SMPO provide respectively that LR and TR are in force until the end of the specified period, or the removal of the person's name from the register. Hence, if a LR or TR SMProf has his/her name removed from the register, his/her LR or TR will lapse immediately. If a SMProf under LR wish to continue with their employment with the designated institutions, subject to any sanctions imposed by SMPC if his/her name is removed under section 22 of the SMPO, they may simply apply afresh for a new registration. For TR, the relevant institution may make a fresh application for the SMProf. There is no need for a mechanism to restore the name of a SMProf under LR or TR after removal from the register.

Inspection of register (clause 14(13) of the Bill)

6. Under the proposed amended section 10(6) of Cap. 359, a register other than the part in relation to temporary registration may be inspected without payment of any fee, during usual business hours upon application to the secretary of the board. Please clarify why the Bill proposes that the part in relation to temporary registration of a register could not be so inspected. Please also clarify whether such part may nevertheless in any way be inspected, and if not, the reason(s) for it.

Response:

TR is for the SMProfs to conduct clinical demonstration for or academic exchange with the relevant institution for a period not more than 14 days. In light of the nature of work (which does not involve clinical treatment) and the short registration period, the register for TR is not open for inspection as a general principle across different healthcare professions with TR. However, the Secretariat will maintain the register for recording the particulars of practitioners under TR. If members of public would like to obtain information of the register, they can file a formal request to the Secretariat, subject to the Code on Access to Information or the Personal Data (Privacy) Ordinance (Cap. 486) as applicable.

Allied Health Professions Council to specify qualifications and experience required for full registration (clauses 15 and 31(6) of the Bill)

7. Under the proposed amended section 12(1)(a) of Cap. 359, a person would be qualified for full registration if (a) the person holds the qualification, and (as the case requires) has the experience, specified by the Council in accordance with the regulations (proposed amended section 12(1)(a)(i)), or (b) holds a certificate from the relevant board stating that the person has passed the relevant examination conducted by the board (proposed amended section 12(1)(a)(ii)).
8. Under the proposed new section 29(1C)(a) of Cap. 359, subject to the approval of the Secretary for Health (“SH”), regulations may be made by the Council to provide for its specifying, by notice published in the Gazette, the qualification and (as the case requires) experience required

for full registration in a profession for the purposes of the proposed amended section 12(1)(a)(i) of Cap. 359. Under the proposed amended provisions in various items of the subsidiary legislation of Cap. 359,⁴ any such notice would not be subsidiary legislation and thus not subject to negative vetting. Please clarify why such an approach is considered appropriate.

Response:

According to section 29(1B)(e) of SMPO , subject to the approval of the Secretary for Health, SMPC may by regulation specify for the purpose of section 12(1)(a) degrees, diplomas or other documents or experience, and the entry of the names of the persons qualified under that section in different parts of the register according to their qualifications and experience. Under existing practice, only programmes accredited by SMPC will be proposed for specification under section 12(1)(a) of SMPO.

With the increase in the demand for SMProfs, various local post-secondary institutions have sought SMPC's accreditation of the professional training programmes they offered over the past 10 years or so. To date, SMPC has accredited eight such programmes including four programmes operated by Tung Wah College, namely Bachelor of Science (Honours) in Medical Laboratory Science, Bachelor of Science (Honours) in Occupational Therapy, Bachelor of Science (Honours) in Radiation Therapy and Bachelor of Science (Honours) in Physiotherapy; two programmes operated by The Hong Kong Polytechnic University, namely Master in Occupational Therapy and Master in Physiotherapy; the Bachelor of Science (Honours) in Physiotherapy operated by Hong Kong Metropolitan University and the Bachelor of Science (Honours) in Physiotherapy operated by Saint Francis University. Pending legislative amendments to formally include these eight programmes in subsidiary legislation, SMPC adopted an interim measure by exercising its discretionary power to enable those graduates to apply for registration under the existing section 12(1)(b) of SMPO which does not require negative vetting by the LegCo.

⁴ Please refer to the proposed amended regulation 4 of Cap. 359A, regulation 4 of Cap. 359B, section 4 of Cap. 359F, section 6 of Cap. 359H and section 4 of Cap. 359J in clauses 38, 67, 96, 126 and 157 of the Bill.

Considering the growth and increasing diversification of training of SMProfs, alongside the development of these professions, the existing approach of individually specifying training programmes in respective subsidiary legislation will inevitably create a significant time lag between their legal recognition and SMPC's accreditation. There is a need to streamline procedures and to align the registration arrangements for graduates of all local training programmes accredited by SMPC. We propose to rationalise the legal recognition process under section 12(1)(a) of the SMPO by enabling the SMPC to specify the qualification and (as the case requires) experience required for full registration in a profession by notice published in the Gazette, instead of the existing mechanism which requires the SMPC to specify the qualifications in the regulation made by SMPC subject to the approval by the Secretary for Health ("SH").

Similar arrangement is also provided for training programmes for registered nurses under regulation 9 of the Nurses (Registration and Disciplinary Procedure) Regulations (Cap. 164A) and for enrolled nurses under regulation 9 of the Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulations (Cap. 164B).

Limited or temporary registration (clauses 6, 17, 33 and 35 of the Bill)

"Designated institution"

9. Under the proposed new section 13A of Cap. 359, a person may apply to the Council for limited registration if, among others, the person has been selected for full-time employment as a person with limited registration in a "designated institution". A list of categories of institutions that would be regarded as designated institutions is contained in the proposed new section 2B of Cap. 359.
10. It is noted that certain categories of institutions are already specified in Part 1 and item 1 of Part 2 of the proposed new Schedule 2 to Cap. 359, and SH may, pursuant to the proposed new section 35 of Cap. 359, by notice published in the Gazette amend those categories of institutions. Any such notice would be subsidiary legislation subject to negative vetting.

11. It is however noted that for the categories of designated institutions that would be (i) designated as such by SH by notice published in the Gazette (under the proposed new section 2B(1)(c) of Cap. 359), or (ii) providing the types of employment for which limited registration is appropriate or necessary as determined and promulgated by the Council by notice published in the Gazette (under item 2 of Part 2 of the proposed new Schedule 2 to Cap. 359), the proposed new section 2B(2) of, and Part 3 of the proposed new Schedule 2 to, Cap. 359 respectively provide that any such notice(s) would not be subsidiary legislation and therefore not subject to negative vetting. Please clarify why such an approach is considered appropriate.

Response:

LR is intended to attract non-locally trained SMProfs capable of serving in “designated institutions” (as defined under the new section 2B of the SMPO) in the public healthcare sector to help tide over manpower needs and to meet sudden surges in manpower demand. “Designated institutions” which may employ LR SMProfs include—

- (a) the Department of Health (“DH”), the Hospital Authority (“HA”), Primary Healthcare Commission (“PHCC”), The Chinese Medicine Hospital of Hong Kong (“CMHHK”), and training institutions (Part 1 and section 1 of Part 2 of the new Schedule 2 to the SMPO);
- (b) an institution providing the type of employment for which LR is appropriate or necessary as determined and promulgated by SMPC by notice published in the Gazette (section 2 of Part 2 of the new Schedule 2 to the SMPO); and
- (c) institutions designated by SH by notice published in the Gazette (the new section 2B(1)(c) of the SMPO).

For (b) and (c), the notice published in the Gazette is not subsidiary legislation. To address any sudden surges in demand, such as the COVID-19 pandemic, we consider it essential to confer a power to the SMPC and SH to designate specific institutions eligible for employing SMProfs of LR. As the designation of institutions is aimed at meeting

unexpected and urgent public policy needs, some degree of flexibility should be given to the relevant authorities to add or remove the institutions by administrative measures at short notice. In comparison, as the institutions under (a) are established institutions facing SMProfs manpower shortage and have significant need to ensure a steady manpower supply, we consider that they can be spelt out in the new Schedule 2 to the SMPO, and the change of which can only be effected by way of subsidiary legislation. Similar arrangements have been adopted in the LR regime for dentists and nurses.

“Relevant institution”

12. Under the proposed new section 13B of Cap. 359, a “relevant institution” may apply to the Council for temporary registration of a person exclusively for conducting clinical demonstration for, or academic exchanges with, the relevant institution. An institution would be a relevant institution if it is specified as such by the Council by notice published in the Gazette. Similarly, any such notice would not be subsidiary legislation and therefore not subject to negative vetting (proposed new section 13B(11)). Please clarify why such an approach is considered appropriate.

Response:

Unlike SMProfs under LR who will provide clinical services to patients, TR is meant to facilitate non-locally trained SMProfs in carrying out clinical demonstration or participating in academic exchange in Hong Kong with a maximum duration of 14 days. Given the very specific objective of TR and the nature of activities to be carried out by TR SMProfs, we consider it appropriate for SMPC to determine the suitability of relevant institutions based on its professional knowledge and specify eligible institutions by notice published in the Gazette without going through negative vetting. Similar arrangements have been adopted in the TR regime for dentists and nurses.

Recognizing non-Hong Kong qualifications by Allied Health Professions Council

13. For the purposes of limited registration under the proposed new section 13A(3) of Cap. 359, it is proposed that the Council must approve the application if, among others, the applicant has obtained a non-Hong Kong qualification and the Council is satisfied that the qualification is sufficient for the applicant to perform the scope of work of the employment, and possesses a valid certificate, issued by a certifying body recognized by the Council, to practise the relevant profession constituting sufficient evidence of the applicant's competency to practise the relevant profession (subject to certain exceptions). Please clarify the criteria that would be adopted for considering any qualification as sufficient, or as sufficient evidence, for the purposes of the proposed new section 13A(3), and why they are not provided for in the Bill. It is noted that under the Medical Registration Ordinance (Cap. 161), its section 14F(3) contains the criteria in relation to the recognition of a medical qualification. Please also clarify whether a list of recognized non-Hong Kong qualifications would be published, and if so, where it would be.

Approval of applications by Allied Health Professions Council

14. Besides, as aforesaid, the Council must approve an application for limited registration under the proposed new section 13A(3) of Cap. 359, if it is satisfied that certain criteria are met (and upon compliance with other application requirements under the proposed new section 13A(2) of Cap. 359). In comparison, it is provided under the proposed new section 13B of Cap. 359 that the Council may approve or reject an application for temporary registration and must not approve it unless the Council is satisfied that it is appropriate and necessary for the person to be granted the temporary registration. Please clarify the difference as to what the Council must or may do in respect of the applications in the above proposed provisions.

Consolidated response to para. 13 and 14:

The purpose of the new LR route is to admit qualified non-locally trained SMProfs with the required qualification and experience to practise their specialty areas, in order to meet the specific service needs of the public healthcare sector when such job vacancies cannot be filled by locally-trained practitioners. SMProfs with LR will not migrate to full registration after serving a certain period of time in the public healthcare sector. As for the non-locally trained SMProfs seeking full registration, they should continue to apply to the SMPC under the existing route as provided in s.12(1)(b) of the SMPO.

Given the objective of the new LR route, a person eligible for LR must—

- (a) have been selected for full-time employment as a person with LR in a designated institution;
- (b) have obtained a non-local qualification and SMPC is satisfied that the qualification is sufficient for him / her to perform the scope of work of the employment;
- (c) possess a valid practising certificate issued by a certifying body recognized by SMPC;
- (d) have had at least 1 year of full-time post qualification experience relevant to the employment; and
- (e) satisfy SMPC that he / she is of good character and has good professional conduct.

Apart from the requirement on experience set out at the new section 13A(3)(d) of the SMPO, the key consideration is whether the qualification obtained by the applicant is sufficient to perform the specific scope of work in his/her employment. Considering the different scope of work expected to be performed by the applicant, the breadth and depth of professional skillset and knowledge will also differ. It is therefore impracticable to specify a unified requirement on the qualification in the legislation.

In alignment of SMPC's role in specifying training programmes eligible for the purpose of full registration, SMPC should remain the authority to decide under the new section 13A of the SMPO whether a non-Hong Kong qualification is sufficient for the applicant to perform the scope of work of

the employment or whether a certificate issued by a certifying body to practise the relevant profession constitutes sufficient evidence of the applicant's competency to practise the relevant profession. Before giving a job offer to a non-locally trained practitioner for registration under LR, the public healthcare institution concerned (including the HA, DH, PHCC and CMHHK) will assess whether the applicant can meet the job requirements. SMPC is expected to make reference to the assessment made by the public healthcare institution concerned and the views of the respective Board Chairman, who is also a member of the SMPC.

A mechanism for promulgation of a list of recognised non-local qualifications to serve as a qualification threshold for processing applications for LR is not appropriate in the case of the Bill given the sizeable quantum of allied health training programmes around the world, and the time and cost involved in vetting individual qualifications. The Government will continue to discuss with SMPC facilitative measures for prospective non-locally trained SMProfs, including from time to time promulgating the non-local qualifications possessed by LR SMProfs for applicants' reference.

LR and TR serves different purposes, hence the different approaches in the drafting of the new section 13A and 13B of the SMPO regarding their approval arrangement. For LR, the role of the SMPC is to ensure the professional competency and personal integrity of the applicant are capable to serve in designated institutions practising a particular specialty area. The focus of SMPC's consideration is on professional standard. As for TR, more flexibility is provided for the SMPC to consider the nature of the activities the applicant for TR seeks to attend for professional exchange and training purposes.

Conditions imposed on registration

15. It is proposed under the new section 13A(4) or 13B(5)(b) of Cap. 359 that on approving an application for limited or temporary registration, the Council may impose any condition that the Council considers appropriate. Please clarify (a) what kind of conditions may be imposed; (b) what factors would be taken into account in determining whether the conditions imposed are appropriate; and (c) whether it is necessary

to specify those factors in the Bill for the sake of clarity and certainty. Please also clarify whether the conditions imposed may be cancelled, amended or added, and in the case of limited registration, whether such conditions (as initially imposed, or subsequently amended or added) would be included in the relevant certificate of registration (see for instance, the existing section 15(4) and (5) of Cap. 359 regarding provisional registration). If so, please consider expressly providing for the same in the Bill; if not, please clarify the reason(s).

Response:

The rationale for LR is to admit qualified non-locally trained SMProfs with qualification and experience to practise their specialty areas to meet the specific manpower need of the public healthcare sector. The conditions to be imposed aim to confine the person under LR to practise within the approved remit of his/her expertise and qualifications, having regard to the specific scope of work for which he/she is employed. These conditions mainly serve to ensure patient safety and facilitate enforcement of regulatory actions. Considering the different scope of work expected to be performed by the applicant, it is impracticable to specify exhaustively the kinds of condition to be imposed in the legislation.

Separately, LR and TR are both time-limited arrangement ranging from 14 days to three years and employment-/activity-tied to perform a limited scope of practice in public healthcare sector or for academic exchange and clinical demonstrations. The clinical setting in which SMProfs under LR work and the qualifications required to perform the specific scope of work should be confined with the registration period, i.e. up to three years for LR and 14 days for TR. Any changes of the clinical setting will require a fresh application, and the SMPC will review whether the existing conditions should be varied. On the contrary, provisional registration does not have an expiry date. The existing section 15(4) and (5) of the SMPO are therefore required to allow their conditions to be reviewed from time to time.

Validity period of registration

16.As regards the period during which limited or temporary registration of

a person would be in force, should “until the earlier of the following” in the proposed new section 13B(9) of Cap. 359 rather be “until the earliest of the following”, as in the proposed new section 13A(8) of Cap. 359.

Response:

We will move a committee stage amendment (“CSA”) to replace “earlier” with “earliest” in the proposed new section 13B(9) of the SMPO.

Applicability of offence under existing section 12(2) of the Supplementary Medical Professions Ordinance (Cap. 359)

17. It is provided under the existing section 12(2) of Cap. 359 that a person who wilfully procures himself or any other person to be registered e.g. by making or producing any false or fraudulent representation or declaration (whether in writing or otherwise) commits an offence. The relevant penalty is set out in the existing section 27(a) of Cap. 359, i.e. a fine at level 2 (HK\$5,000) and imprisonment for two years. It is noted that under the proposed amended section 2 of Cap. 359, “registered” would mean “entered in a register in accordance with section 13, 13A, 13B or 15” (or restored to the register in accordance with section 10 of Cap. 359). In the premises, please clarify whether the offence under section 12(2) would already apply to persons with full registration, limited registration, temporary registration or provisional registration. If the answer is in the affirmative, please consider, for the sake of clarity and certainty, whether section 12(2) should be set out in a separate section and the reference to section 12(2) in the proposed amended section 15(7) of Cap. 359 (concerning provisional registration) should be deleted.

Response:

From the policy perspective, we agree that the offence under section 12(2) of the SMPO should apply to all registered person, including those under full registration, limited registration, temporary registration and provisional registration. We will review the relevant provisions and, if necessary, move a CSA to this effect.

Appeals (clause 29)

18. The proposed amended section 25(1) of Cap. 359 seeks to set out the kinds of decisions or order of the Council or the relevant board that might be appealed against under Cap. 359. Please clarify why the proposed amended section 25(1) of Cap. 359 would not include the relevant board's decision to reject an application for restoration of a person's name to the relevant register made under the proposed amended section 10(5) of Cap. 359.

Response:

The amended section 15B of the SMPO already provides for a mechanism for persons aggrieved by the decision of the Board to lodge an appeal to the SMPC, including the Board's decision to reject an application for restoration of a person's name to the relevant register. There is no need to provide an additional pathway for persons aggrieved by such decision to lodge an appeal to the Court of Appeal under section 25(1) of the SMPO.

Savings and transitional provisions relating to Supplementary Medical Professions (Amendment) Ordinance 2025 (if passed) (clause 35)

Complaints to Preliminary Investigation Committee

19. Regarding Division 2 of Part 3 of the proposed new Schedule 3 to Cap. 359 concerning complaints to Preliminary Investigation Committee ("PIC"), please clarify why only a complaint or information submitted to a former PIC under the pre-amended Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359F) or the pre-amended Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359J) is catered for in the transitional provisions (but not also a complaint or information submitted to a former PIC under the pre-amended Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359A), the pre-amended Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359B) or the pre-amended Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359H)).

Response:

The disciplinary mechanism under the existing Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. F) (“Cap. 359F”) and Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359J sub. leg. J) (“Cap. 359J”) are different from the pre-amended Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. A) (“Cap. 359A”), the pre-amended Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. B) or the pre-amended Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. H) (“Cap. 359H”) in that Cap. 359F and Cap. 359J do not provide the power for the chairman of the Preliminary Investigation Committee (“PIC”) to dismiss groundless or frivolous complaints (“the power to dismiss”). Taking the opportunity of this legislative amendment, we will align the disciplinary procedures across all five Boards of SMPs by including the power to dismiss for the Optometrists Board and the Physiotherapists Board. As such, transitional provision is only required for complaints received by the former PIC of these two Boards so that the procedures under the pre-amended Cap. 359F and Cap. 359J will continue to apply to these complaints, namely the power to dismiss will not be applicable to these complaints. No transitional provision is required for other Boards because their complaint handling mechanism remains unchanged.

Restoration of name removed under pre-amended Ordinance for specified period

20. Regarding section 20 of Part 4 of the proposed new Schedule 3 to Cap. 359 concerning restoration of a name removed under the pre-amended Ordinance for a specified period, please consider whether the word “corresponding” should be added before “part of a new register” in the proposed new section 20(2), as read with the proposed new section 20(1). Please also refer to the relevant wording in section 19 (restoration of name removed from register under pre-amended Ordinance (other than one removed for specified period)) of Part 4 of the proposed new Schedule 3 to Cap. 359.

Response:

We will review the relevant provisions and, if necessary, move a CSA to the effect that “corresponding part of a new register” is to be referred to in section 20 of Part 4 of the proposed new Schedule 3 to Cap. 359.

Submission of complaint to Preliminary Investigation Committee and proceedings at hearing of relevant board (clauses 36(3) and (6), 47, 48, 53 and 54, etc.)

21. It is noted that under the proposed amended Cap. 359A, a relevant complaint (including information) made to a PIC and any subsequent referral of such complaint to the board for due inquiry might only be made against (a) a registered medical laboratory technologist, or (b) an applicant for registration as a medical laboratory technologist with full registration or provisional registration (see the proposed amended definitions of “complainant” and “respondent” in the proposed amended regulation 2, and the proposed amended regulations 18, 19, 38(b) and 40(b) of Cap. 359A). Please clarify why an applicant for registration as a medical laboratory technologist with limited or temporary registration would not be the subject of any such relevant complaint.

22. Similarly, please clarify why an applicant for registration in respect of any of the other four relevant professions (i.e. as an occupational therapist, an optometrist, a radiographer or a physiotherapist) with limited or temporary registration would not be the subject of a relevant complaint under the proposed amended Cap. 359B, Cap. 359F, Cap. 359H or Cap. 359J.⁵

Consolidated response to para. 21 and 22:

We are conscious about the difference in the handling of applications for LR and TR vis-à-vis complaint against registered SMProfs and application for full registration. The overriding consideration is quality assurance,

⁵ Please refer to the relevant proposed amended provisions under clauses 65(3) and (6), 76, 77, 82, 83, 94(3) and (6), 106, 107, 112, 113, 123(3) and (7), 134, 136, 137, 142, 143, 155(3) and (7), 166, 167, 172 and 173 of the Bill.

while balancing the need to timely process incoming LR and TR applications for addressing the imminent manpower shortage. Adopting the same PIC and inquiry procedures for incoming LR and TR applications where the applicants' character and professional conduct were called into question would be potentially time-consuming, especially for those who might not have any prospect of being admitted to practise in Hong Kong. Instead, the approach adopted in the Bill empowers the SMPC to reject applications for LR and TR without having to go through the full PIC and inquiries procedures, providing for a more effective administrative regime. This also aligns with the approach adopted in the amended Nurses Registration Ordinance in the recent legislative amendment exercise.

Proposed restrictions of direct access to services of professions

Occupational therapists or physiotherapists (clauses 69(4) and 159 of the Bill)

23. Under the proposed amended regulation 6 of Cap. 359B, an occupational therapist may provide service of the occupational therapist's profession to a person without referral by a registered medical practitioner ("RMP") or a registered Chinese medicine practitioner ("CMP") in certain specified circumstances, e.g. if (i) the condition of the person is of a kind that is recognized by any clinical protocol published by a referencing authority (i.e. the Department of Health, the Hospital Authority, the Primary Healthcare Commission ("PHC") or The Chinese Medicine Hospital of Hong Kong) as not requiring such referral, upon compliance with the requirements set out in the clinical protocol (proposed new regulation 6(4)(b) and 6(5)); (ii) the person is enrolled in a cross-disciplinary collaboration arrangement of PHC under which no such referral would be required, upon compliance with the requirements set out in the guidelines published by PHC (proposed new regulation 6(4)(c) and 6(6)); or (iii) the situation falls within the circumstances set out in the Code of Practice as not requiring such referral, including an emergency situation. Similar provisions are proposed for Cap. 359J concerning physiotherapists (see proposed amended regulation 6 of Cap. 359J).

24. For items (i) and (ii) above, please clarify (a) what kinds of requirements would be set out in the clinical protocol or the guidelines published by PHC; and (b) whether it is necessary to expressly provide for the guiding principles underlying such requirements in the Bill for the sake of clarity and certainty.

Response:

Item (i) and (ii) are conditions for physiotherapists and occupational therapists to provide services to patients directly, where patients are not required to have a prior consultation with a registered medical practitioner or a Chinese medicine practitioner (“CMP”). The objective of the clinical protocols published by referencing authorities and guidelines published by PHCC is to enable direct access without compromising patients’ safety. The clinical protocols and guidelines will set out their applicability, including who may rely on them to provide service, steps practitioners should undertake when dealing with different conditions, and emergency referral in cases the patients displayed “red flag” symptoms, etc. As the applicability of these clinical protocols or guidelines may vary across different clinical settings, their content may also vary, making it difficult for the Bill to set out in detail its content, without compromising the capacity of the referencing authorities and PHCC to adjust the protocols and guidelines in step with the actual circumstances.

25. For item (iii), please clarify what kinds of circumstances are contemplated to be included in the relevant Code of Practice.

Response:

Item (iii) seeks to preserve the status quo where physiotherapists and occupational therapists are allowed by their respective Code of Practice (“CoP”) to provide service without referral under circumstances such as emergency situation. This proposed formulation aims at requiring the SMPC and the relevant Boards to proactively discuss the actual circumstances in which physiotherapists and occupational therapists are allowed to provide treatment without previous referral, with a view to clearing up the grey area and protecting practitioners from inadvertently

contravening the law or the CoP.

Medical laboratory technologists or radiographers (clauses 40 and 133 of the Bill)

26. Under the proposed amended regulation 6 of Cap. 359A or section 15 of Cap. 359H, a medical laboratory technologist or a diagnostic radiographer may perform any specified tests or diagnostic imaging examination on a person on referral other than by an RMP in specified circumstances, including that if the performance of the test or examination falls within the circumstances specified in the relevant Code of Practice, then the test or examination may be performed on referral by (a) a registered CMP, (b) a registered dentist, or (c) a registered veterinary surgeon or a registered chiropractor. Please clarify what kinds of circumstances are contemplated to be included in the relevant Code of Practice.

Response:

At present, the categories of person whose referral medical laboratory technologists and radiographers may accept are set out in the prevailing CoPs of the Medical Laboratory Technologists Board of Hong Kong and the Radiographers Board of Hong Kong as well as Cap. 359H. Upon passage of the Bill, it is expected that the Medical Laboratory Technologists Board and Radiographers Board will suitably review and revise their respective CoPs to dovetail with the legislative amendments arising from the Bill, in consultation with relevant healthcare professions as appropriate. The proposed amended regulation 6 of Cap. 359A and section 15 of Cap. 359H enable the respective Boards to set limits or impose conditions in relation to the referrals made by different healthcare professions. Drawing reference from the prevailing referral arrangement, examples include referrals by dentist to radiographers may only be made for the case of medical exposure of the teeth or jaw, and referrals by chiropractor to radiographers may only be made for the case of medical exposure of the vertebral column and peripheral joints (including the pelvis).

Among others, one of the major objectives of this legislative amendment exercise is to provide a clear legal basis for specified supplementary healthcare professionals to accept referrals from CMPs, with a view to rationalising the referral mechanisms between various professions and demonstrating the policy direction of promoting inter-disciplinary collaboration across healthcare professions. Under the principle of professional autonomy, a broad consensus should be reached between the radiographers, medical laboratory technologists and CMPs on the implementation details and mechanism, so as to ensure the orderly implementation of the referral arrangements. The Government noted that the Chinese Medicine Council of Hong Kong had earlier commenced professional discussion with the Medical Laboratory Technologists Board of Hong Kong and the Radiographers Board of Hong Kong. Depending on the outcome of the discussion, relevant circumstances and/or requirements would be included in the respective CoPs.