

立法會
Legislative Council

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**Paper for the House Committee Meeting
on 28 March 2025**

**Legal Service Division Report on
Supplementary Medical Professions (Amendment) Bill 2025**

I. SUMMARY

- 1. The Bill**

The Bill mainly seeks to amend the Supplementary Medical Professions Ordinance (Cap. 359) and its subsidiary legislation to:

 - (a) provide for limited registrations, and temporary registrations, of persons engaged in professions of allied health (“professions”);
 - (b) rename the Supplementary Medical Professions Council to Allied Health Professions Council (“Council”);
 - (c) change the composition of the Council and boards of the professions;
 - (d) empower the Council to specify the qualifications and experience required for full registration of the professions;
 - (e) empower the Secretary for Health to give directions to the Council and boards;
 - (f) provide for the restriction of direct access to the services of the professions; and
 - (g) provide for related matters.
- 2. Public Consultation**

According to the Administration, extensive consultation and engagement with relevant stakeholders have been carried out since 2019. Another round of engagement to tap their views has started from the third quarter of 2024. The approach proposed in this legislative amendment exercise was, according to the Administration, generally agreeable to the stakeholders.
- 3. Consultation with LegCo Panel**

The Panel on Health Services was consulted on 9 September 2022 and 8 December 2023. Whilst some members supported the legislative proposals, various concerns were raised.
- 4. Conclusion**

The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to introduce reforms to the regulatory regime in relation to the professions, Members may consider forming a Bills Committee to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 26 March 2025. Members may refer to the Legislative Council (“LegCo”) Brief (File reference: HHB CR 1/3261/21 Pt.6) issued by the Health Bureau on 19 March 2025 for further details.

Object of the Bill

2. The Bill mainly seeks to amend the Supplementary Medical Professions Ordinance (Cap. 359) and its subsidiary legislation to:

- (a) provide for limited registrations, and temporary registrations, of persons engaged in professions of allied health;
- (b) rename the Supplementary Medical Professions Council to Allied Health Professions Council (“Council”);
- (c) change the composition of the Council and boards of the professions of allied health;
- (d) empower the Council to specify the qualifications and experience required for full registration of the professions of allied health;
- (e) empower the Secretary for Health (“SH”) to give directions to the Council and boards;
- (f) provide for the restriction of direct access to the services of the professions of allied health; and
- (g) provide for related matters.

Background

3. Cap. 359 and its subsidiary legislation provide for the registration, discipline and better control of persons engaged in the occupations and professions supplementary to medicine, namely, medical laboratory technologists, radiographers, physiotherapists, occupational therapists and optometrists (“SMPs”). According to paragraph 2 of the LegCo Brief, there has been general consensus among SMPs to adopt “allied health professions”, a term which is commonly used in the healthcare sector including the Hospital Authority (“HA”), to reflect their important function and enhanced professional status within the healthcare system, particularly the primary healthcare system. Further, as stated in paragraph 39 of the LegCo Brief, various initiatives in relation to SMPs have been put on the Government agenda for a while. These include increasing participation of lay members in the Council, enabling direct access of patients to services provided by physiotherapists and occupational therapists, enabling Chinese medicine practitioners (“CMPs”) to prescribe diagnostic imaging and laboratory tests for their patients, and introducing new pathways to admit non-locally trained SMPs in Hong Kong. The Bill is introduced into LegCo to implement the above initiatives. Its key provisions are summarized below.

Provisions of the Bill

Proposed limited registration and temporary registration (clauses 6, 17, 33 and 35)

4. The Bill proposes to introduce two new pathways to admit non-locally trained SMPs.

Proposed limited registration

5. Under the proposed new section 13A of Cap. 359 (as added by clause 17), the Council must approve an application for limited registration made by a person if the relevant requirements could be satisfied. For instance, the applicant (a) has been selected for full-time employment as a person with limited registration in a “designated institution”; (b) 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 (c) possesses a valid certificate, issued by a non-local 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).

6. Under the proposed new section 2B of Cap. 359 (as added by clause 6), a “designated institution” would be an institution that (a) is specified in Part 1 of the proposed new Schedule 2 to Cap. 359 (i.e. the Department of Health, HA, Primary Healthcare Commission (“PHC”), and The Chinese Medicine Hospital of Hong Kong (“CMHHK”)); (b) falls within any of the categories of institution specified in Part 2 of the proposed new Schedule 2 (e.g. a university, school or institution operating programmes for conferring or awarding qualifications for the purposes of the proposed amended section 12(1)(a) of Cap. 359 (i.e. full registration for locally trained persons (see paragraph 11 below))); and (c) is designated as a designated institution by SH by notice published in the Gazette (such notice would not be subsidiary legislation and thus not subject to the negative vetting procedure of LegCo under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1)) (“negative vetting”). Pursuant to the proposed new section 35 of Cap. 359, SH may, by notice published in the Gazette (which would be subsidiary legislation subject to negative vetting), amend the proposed new Schedule 2.

7. A limited registration would be in force for a period of not more than three years (proposed new section 13A(4)(a) of Cap. 359). The Bill proposes no migration pathway between limited registration and full registration. According to paragraph 26 of the LegCo Brief, the Administration so proposes after considering the difference in the breadth and depth of professional skillset and knowledge between the two types of professionals.

Proposed temporary registration

8. Under the proposed new section 13B of Cap. 359 (as added by clause 17), the Council may, if satisfied that it is appropriate and necessary, approve an application made by a “relevant institution” for the temporary registration of another person (for a period of not more than 14 days (proposed new section 13B(5)(a))) 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 (which would not be subsidiary legislation and thus not subject to negative vetting) (proposed new section 13B(10) and (11)).

Proposed renaming of Supplementary Medical Professions Council (clauses 7 and 8(1) and (2))

9. Under the proposed new section 2C of Cap. 359 (as added by clause 7), the “Supplementary Medical Professions Council” is proposed to be renamed as the “Allied Health Professions Council” to recognize the enhanced role of the professions in the healthcare system (as stated in the long title of the Bill).

Proposed revised composition of Allied Health Professions Council and boards of professions (clauses 8(3) to (6) and (8), and 10(1) to (11))

10. Under the proposed amended section 3 of Cap. 359 (see clause 8), the Council’s composition would be revised from 18 to 25 members (at the maximum), with two additional lay members (i.e. altogether six lay members with at least one registered medical practitioner (“RMP”) and one registered CMP (proposed amended section 3(1)(g) and (h))), and five new members who would be the chairmen of the boards of the five professions of SMPs concerned (proposed new section 3(1)(i)). Moreover, the Deputy Chairman would have to be a specified officer, i.e. a public officer, or an officer of HA or PHC (proposed amended or new section 3(1)(b) and (5)). For each board, according to the proposed amended section 5 of Cap. 359 (see clause 10), the composition would be revised from 12 to 13 members (at the maximum), with two new lay members (proposed new section 5(1)(f)), while the role of the Chairman of a board would be filled by a person appointed by the Chief Executive from among the board members (proposed new section 5(3A)(a)). Besides, the two roles of RMPs would be nominated by the Hong Kong Academy of Medicine (the nominee also has to be a registered specialist) and HA, instead of being nominated by the Hong Kong Medical Association and the Hong Kong Branch of the British Medical Association (proposed amended section 5(1)(b) and (c)). Members may refer to Annexes C (for the Council) and B (for the boards) to the LegCo Brief for further details.

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

11. Currently under section 12(1)(a) of Cap. 359, a person (i.e. a locally trained SMP) is qualified to be registered in respect of the relevant profession (i.e. full registration) if, subject to compliance with the relevant requirements, the person (a) holds such degree, diploma or other document as may be prescribed, issued by any examining body as may be prescribed or by the relevant board, or (b) holds any such degree, diploma or other document and has the prescribed experience. Clause 15 of the Bill proposes to amend that section to the effect that a person would be so qualified if (a) the person holds the qualification, and (as the case requires) has the experience, specified by the Council in accordance with the regulations to be made (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)). Under the proposed new section 29(1C)(a) of Cap. 359, subject to SH’s approval, regulations may be made by the Council to provide for its specifying, by notice published in the Gazette (which would not be subsidiary legislation and thus not

subject to negative vetting), 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.

Proposed restrictions of direct access to services of professions (clauses 25, 31(10), 40, 69(4), 133, 152 and 159)

12. Currently, medical laboratory technologists, radiographers, physiotherapists and occupational therapists are required to provide examination or treatment services to patients only on referral from other healthcare professions, such as RMPs (except in certain circumstances). They are not allowed to treat or examine patients referred by CMPs.

13. Clauses 69(4) and 159 of the Bill propose to amend the relevant subsidiary legislation under Cap. 359¹ to the effect that a physiotherapist or an occupational therapist may only provide any service of the profession concerned on referral by an RMP or a registered CMP, and that such restriction would not apply under certain circumstances, including where the physiotherapist or occupational therapist has obtained a certificate issued by an RMP or a registered CMP not more than 12 months earlier (which sets out the diagnosis of the patient's condition) and the services are only to be provided for the diagnosed condition.

14. Clauses 40 and 133 of the Bill propose to amend the relevant subsidiary legislation under Cap. 359² to the effect that a medical laboratory technologist or a diagnostic radiographer may perform relevant tests or diagnostic imaging examination on a person on referral by a registered CMP in specified circumstances. For instance, a medical laboratory technologist authorized by CMHHK may perform the relevant test on referral by a registered CMP who is authorized by CMHHK to provide services to a CMHHK patient ("CMHHK CMP") (clause 40(2) and (5)). A diagnostic radiographer authorized by CMHHK may also perform a diagnostic imaging examination on a person on referral by a CMHHK CMP (clause 133(1) and (4)).

Other amendments

15. The Bill also proposes to make other technical, related and consequential amendments, and savings and transitional provisions, such as providing that:

- (a) the Council and boards may provide any information to SH if SH requests the information for the formulation of health care policies (proposed new section 9A of Cap. 359) (clause 13);
- (b) persons with full registration, limited registration or provisional registration must comply with applicable continuing professional development requirements as determined by the Council for renewing their practising certificates (proposed new section 16(2A) of Cap. 359) (clause 21); and
- (c) SH may, if SH considers it is in the public interest, give written directions to the Council, or a board, in relation to the performance of its functions or the exercise of its powers (proposed new section 34 of Cap. 359) (clause 33).

¹ The Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359B) and the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359J).

² The Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359A) and the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359H).

Commencement

16. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance, except that:

- (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 Cap. 359), 36(1), 65(1), 94(1), 123(1), 155(1) and 200 would come into operation on 1 January 2026 (these excepted clauses mainly relate to the composition of the Council and the boards and related matters); and
- (b) clause 153(1) 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 (clause 153(1) relates to certain exemptions for a registered dental hygienist or dental therapist).

Public Consultation

17. According to paragraph 40 of the LegCo Brief, extensive consultation and engagement with relevant stakeholders (including SMPs, the Council, the boards, the medical profession and the Chinese medicine profession) have been carried out since 2019. Another round of engagement to tap their views has started from the third quarter of 2024. Upon enquiry by the Legal Service Division (“LSD”), the Administration replied that the approach proposed in this legislative amendment exercise was generally agreeable to the stakeholders.

Consultation with LegCo Panel

18. As advised by the Clerk to the Panel on Health Services, the Panel was consulted on 9 September 2022 and 8 December 2023. Whilst some members supported the legislative proposals, concerns were expressed about direct access arrangement for physiotherapists and occupational therapists, making continuing professional development mandatory for SMPs, as well as enabling radiographers and medical laboratory technologists to accept referrals from CMPs under specified circumstances.

Conclusion

19. LSD is scrutinizing the legal and drafting aspects of the Bill. Since the Bill seeks to introduce reforms to the regulatory regime in relation to SMPs, Members may consider forming a Bills Committee to study the Bill in detail.

Prepared by

Doreen WAN
Assistant Legal Adviser
Legislative Council Secretariat
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