

7. *The Health Committee*

- 7.1 The Health Committee (HC) is established to deal with the health aspect of medical practitioners whose fitness to practise medicine is called into question. It acts in accordance with the procedure laid down in the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (the Regulation).
- 7.2 The functions of the HC are as follows:-
- (a) to conduct a hearing into any case or matter concerning the health or physical or mental fitness to practise of any registered medical practitioner, whether the case or matter has been investigated by the PIC or not;
 - (b) to conduct a hearing into matters referred to it by the Council under section 21(1) of the Medical Registration Ordinance (MRO);
 - (c) to make a recommendation to the Council, after due hearing conducted under paragraph (a) or (b) above, that the name of a registered medical practitioner be removed from the General Register permanently or for any period not exceeding 12 months, and that such an order for removal be suspended subject to such conditions as recommended by the HC, where appropriate; and
 - (d) to recommend the extension, not exceeding 12 months, of a period of temporary removal of name recommended under paragraph (c) above.
- 7.3 The membership of the HC (as at 31 December 2010) was as follows:-
- Dr CHIU Shing-ping, James (Chairman)
 - Dr CHOW Pak-chin (from 7 January 2010 onwards)
 - Professor LEE Shui-shan
 - Dr LEUNG Pak-yin, JP
 - Dr LI Seung-yau, Derek
 - Dr POON Tak-lun
 - Mrs TAI POON Ching-sheung, Joyce, BBS, JP
 - Dr TSOI Lai-to, Sammy (from 24 January 2010 onwards)
 - Dr TSANG Chiu-yee, Luke
 - Dr TUNG Yuk
 - Dr WONG Josephine Grace Wing-san



7.4 In 2010, the HC conducted a hearing in 1 case. Before conclusion of the hearing, the medical practitioner concerned applied for judicial review of the constitutionality of the provisions of the MRO and the Regulation which prohibit legal assistance at HC hearings, on the ground that they infringe the right to a fair hearing under Article 10 of the Hong Kong Bill of Rights. On 5 October 2010, the Court of First Instance granted the following declarations:

- section 24(2) of the MRO and section 35(1)(c) of the Regulation are unconstitutional in that they prohibit legal assistance at a hearing of the HC;
- the HC proceedings before the judicial review in respect of the medical practitioner's fitness to practise are unlawful and of no effect.

Given the judgment of the Court of First Instance, the HC would conduct a fresh hearing of the case.