

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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LegCo Panel on Health Services

Subcommittee on improvements to the medical complaints mechanism

Minutes of meeting
held on Tuesday, 3 July 2001 at 8:30 am
in Conference Room A of the Legislative Council Building

- Members Present** : Hon LAW Chi-kwong, JP (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han
Dr Hon YEUNG Sum
Hon Andrew CHENG Kar-foo
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok
- Member Absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
- Public Officers Attending** : Mr Thomas YIU
Deputy Secretary for Health and Welfare
- Dr Sarah CHOI
Principal Medical and Health Officer
Health and Welfare Bureau
- Dr Constance CHAN
Assistant Director of Health (Health Adm & Planning)

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Dr Monica WONG
Principal Medical and Health Officer
Department of Health

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Ms Eva LIU
Head, Research & Library Services Division

Ms Elyssa WONG
Research Officer 4

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Presentation of research report on Medical Complaints Mechanism in Overseas Places

(RP14/00-01 - research report issued on 29 June 2001)

Head, Research and Library Services Division presented the above report which described and analysed the mechanism for handling complaints lodged against doctors in the United Kingdom (UK); California, the United States of America; Ontario, Canada and New South Wales (NSW), Australia.

II. Meeting with the Administration

(LC Paper Nos. CB(2)1975/00-01(01) and (02))

2. Deputy Secretary for Health and Welfare (DSHW) introduced the Administration's paper (LC Paper No. CB(2)1975/00-01(01)) which described and analysed the patient complaints systems of Australia, UK, Ireland, Northern Ireland and Canada. In particular, DSHW said that the Administration considered that a redress mechanism based on the model of an ombudsman might not be able to meet the public expectations due to the limited scope of such system. It, however,

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considered that there were good points in the Australian system that merited further consideration.

3. Dr YEUNG Sum noted that under the Australian system, the executive arms of the Health Care Complaints Commission (HCCC) of NSW and the Health Services Commission (HSC) of Victoria were housed under the Department of Health. Dr YEUNG enquired whether this should be taken to mean that the Administration was inclined on setting up a Complaint Office in the Department of Health (DH), having regard to the statement made in paragraph 32 of the Administration's paper that the Australian system merited further consideration. Dr YEUNG said that he would condemn the Administration if it insisted on setting up a Complaint Office in DH, as this ran counter to the public's call for an independent medical complaints office. Dr YEUNG considered the UK system based on the model of an ombudsman system worth pursuing. Dr YEUNG further said that there was no cause for concern that an independent medical complaints office would undermine professional self-regulation, as paragraph 30 of the Administration's paper stated that the principle of professional autonomy was preserved irrespective of which mode the complaint mechanism took.

4. DSHW clarified that the intent of the Administration's paper was merely to set out the advantages and disadvantages of different patient complaints systems overseas. He stressed that the Administration had not come to a view on setting up a Complaint Office in DH, and would continue to adopt an open-mind to any suggestions on improving the patient complaints system in Hong Kong.

5. Dr YEUNG Sum opined that if a Complaint Office was set up in DH, such an office must be accountable to the Legislative Council. This was to be in line with the Australian system whereby the work of the Commissioner of HCCC was monitored and reviewed by the Joint Committee, which consisted of members appointed by the Legislative Council/Assembly. The Joint Committee reported to the Houses of Parliament and it also had the power to veto proposed appointment of the Commissioner.

6. Mr Andrew CHENG enquired about the principles which would be used by the Administration to assess the adoption of the Australian patient complaints system in Hong Kong.

7. DSHW reiterated that the Administration had no inclination towards any particular mode of complaint mechanism for adoption in Hong Kong. It considered that the Australian system merited further consideration because such a system was user-friendly by providing a one-stop service for complaints. In addition, it had the advantage of enhancing efficiency by utilisation of professional staff of the Government, and avoidance of duplication of function. Moreover, unlike the UK system which could only investigate complaints against National Health Service hospitals, the Australian system could investigate complaints against services provided

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by both the public and private sectors. DSHW further said that although the executive arms of HCCC and HSC were housed under the Department of Health, both were accountable to the legislature similar to an ombudsman system.

8. As new legislation would be required for the setting up of an independent medical complaints office, Mr CHENG further enquired whether this would be an obstacle for setting up such. If not, he wished to know what would be the time required for enacting the new legislation.

9. DSHW responded that the need for new legislation had never been a reason of the Administration for not doing what was needed. DSHW further said that as enacting a new piece of legislation to set up a medical complaints office in DH or outside the Government would take one to two years to complete, some interim measures might need to be put in place to meet pressing public demand.

10. Miss CHAN Yuen-han said that one of the Administration's arguments for setting up a Complaint Office in DH was because complainants could have the full benefit of the expertise and advice provided by DH staff. Miss CHAN, however, pointed out that an independent medical complaints office could also provide the same service to the complainants if adequate resources were provided for it to recruit professional staff. In this connection, Miss CHAN urged the Administration not to use significant resources required as a reason for not supporting the setting up of an independent medical complaints office as funding for such an office and DH all came from the public purse.

11. DSHW responded that money should not be a factor for not setting up an independent medical complaints office. DSHW further said that the main reason why the Administration recommended the setting up of a Complaint Office in DH was because the Department was well placed to take on this task as it would take on the role of an advocate for health and a regulator to ensure quality, and give up eventually its direct health care services.

12. Ms LI Fung-ying enquired whether the Administration was supportive of an open inquiry in handling patient complaints, as there was no mention of this point in the Administration's paper.

13. DSHW responded that the Administration was not in a position to comment on how an inquiry should be conducted, as this was the remit of the regulatory bodies. The Chairman said that almost all hearings of the Medical Council of Hong Kong were held in public.

14. At the invitation of the Chairman, Principal Medical and Health Officer, DH (PMHO) took members through the Administration's paper (LC Paper No. CB(2)1975/00-01(02)) which gave a brief account of the complaint handling process

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of private hospitals.

15. The Chairman enquired whether consideration would be given to the setting up of a committee, similar to the Public Complaints Committee of the Hospital Authority, in DH. DSHW responded that there was no need for such an arrangement. At present, DH was receiving complaints relating to private hospitals and carrying out investigation as a third party. As the licensing authority, DH had required the private hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance to set up a mechanism to receive and handle complaints from their clients. The Director of Health or persons duly authorised by the Director were empowered to enter and inspect the premises and any records in accordance with the Ordinance.

16. Dr LO Wing-lok noted that in 2000, a total of 490 complaints were received and handled by the 12 private hospitals. Dr LO enquired how many of these 490 complaints were further investigated or reviewed by DH because the complainants were dissatisfied with the response of the private hospitals concerned. He also enquired how many complainants were dissatisfied with the investigation results of DH. Dr LO further enquired about the number of staff deployed to undertake investigation into complaints received from clients of private hospitals.

17. PMHO responded that of the 24 complaints on private hospitals received by DH in 2000, about one-third were from people dissatisfied with the responses of the private hospitals concerned. Of these 8 to 9 complaints, one to two complainants were still dissatisfied with the investigation carried out by DH. As to the number of staff deployed to undertake investigation into complaints received from clients of private hospitals, PMHO said that four staff, including one at a directorate rank, were tasked to do the work.

18. The Chairman enquired whether amendments would need to be made to the Ordinance in the event that a Complaint Office was set up in DH, as the Ordinance only regulated private hospitals, nursing homes and maternity homes. DSHW responded that studies would be made to determine whether amendments to the Ordinance or a separate piece of legislation should be enacted to effect such.

III. Any other business

19. The Chairman sought members' views on inviting other healthcare professionals, apart from doctors, dentists and nurses, to give views on improvements to the medical complaints mechanism. Members agreed.

20. Ms Cyd HO suggested to seek the views of the two university hospitals on the role they wished to play in the event that an independent medical complaints office

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was set up. The Chairman was of the view that this question should also be put to other concerned parties, and suggested to defer asking such to a later stage. Members agreed.

IV. Date of next meeting

21. Members agreed to hold the next meeting on 26 September 2001 at 9:00 am to discuss the views and suggestions received on improvements to the medical complaints mechanism.

22. There being no other business, the meeting ended at 10:15 am.

Legislative Council Secretariat

21 September 2001