

**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 Wednesday, 21 November 2001 at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

- Members Present** : Hon LAW Chi-kwong, JP (Chairman)  
Hon CHAN Kwok-keung  
Hon CHAN Yuen-han, JP  
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
- Members Absent** : Hon Cyd HO Sau-lan  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Dr Hon YEUNG Sum
- Public Officers Attending** : Miss Joanna CHOI  
Acting Deputy Secretary for Health and Welfare
- Mr Eddie POON  
Principal Assistant Secretary for Health and Welfare

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Dr Sarah CHOI  
Principal Medical and Health Officer  
Health and Welfare Bureau

Dr Constance CHAN  
Assistant Director of Health

Dr Monica WONG  
Principal Medical and Health Officer  
Department of Health

Dr K M CHOY  
Executive Manager (Professional Services)  
Hospital Authority

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

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

Miss Mary SO  
Senior Assistant Secretary (2) 8

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**I. Meeting with the Administration and the Hospital Authority**  
(LC Paper No. CB(2)436/01-02)

At the invitation of the Chairman, Acting Deputy Secretary for Health and Welfare (DSHW(Atg)) took members through the Administration's paper which set out the key problems of the existing patient complaint system and proposed directions for improvement.

2. Ms LI Fung-ying asked the Administration whether it would give weight to the public call for the setting up of a medical complaint office independent of the Medical Council of Hong Kong (the Medical Council) and the Government in deciding on the way forward. Ms LI expressed concern that despite the fact that the Medical Council's proposal of setting up a Complaint Receiving Division in its Secretariat ran counter to the public call for an independent medical complaint office, the Administration had only stated in paragraph 4(i) of its paper that it would examine in

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detail each of the reform proposals to be submitted by the Medical Council before deciding on the directions for improving the patient complaint system. DSHW(Atg) assured members that the Administration would take into account public's views on ways to improve the patient complaint system before deciding on the way forward. DSHW(Atg) further said that the Administration intended to brief members on its stance on the proposal of setting up an independent medical complaint office after it had examined the Medical Council's reform proposals.

3. Mr Michael MAK sought the Administration's view on the setting up of an independent office to provide "one-stop" service for handling patient complaints. Mr MAK further said that in order to more effectively handle the complaints at the source of delivery, the Hospital Authority (HA) should strengthen the functions of the Patient Relations Officer (PRO). Apart from receiving complaints from the public, the PRO should also undertake mediation between the complainants and the staff under complaint. Executive Manager (Professional Services), HA thanked Mr MAK for his suggestion and agreed that where possible, mediation to resolve matters in a positive way was a helpful form of resolution. However, such mediation might involve clinical colleagues in hospitals besides a single PRO, particularly if the complaints were related to complex clinical matters.

4. Dr TANG Siu-tong said that regardless of how independent a medical complaint office was, it would still need input from the professions concerned to make a ruling on whether a health care practitioner was guilty of professional misconduct. Dr TANG further said that the main cause of public grievances about the patient complaint system was due to the lack of understanding of the functions and roles of different complaint channels. To rectify such, the Administration should educate the public on the functions and roles of the organisations concerned in handling medical complaints, and the organisations concerned should enhance its public relations and make a greater effort to mediate between the parties concerned where appropriate.

5. DSHW(Atg) responded that the Administration had not come to a view on the setting up of an independent office to provide "one-stop" service for handling patient complaints. As mentioned in paragraph 2 above, the Administration would need to first examine the finalised reform proposals of the Medical Council in detail before deciding on the direction for improving the existing patient complaint system, given that the complaint mechanism of the Medical Council was an integral part of the whole patient complaint system. DSHW(Atg) further said that the Administration agreed that there was a need to strengthen communications as pointed out by Dr TANG in paragraph 4 above. In addition, as set out in paragraph 4(iii) of the Administration's paper, any improvement measures should give due regard to professional autonomy.

6. Dr LO Wing-lok said that before deciding on which direction to take to improve the patient complaint system, it was of paramount importance that the quality

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of medical standard and practice would not be undermined as a result. Dr LO pointed out that if a right balance was not struck between safeguarding patients' interests and ensuring that health care providers would not be subjected to unfair criticisms, the quality of medical standard and practice would inevitably suffer. This was because health care professionals and providers would have less time to spend on their patients and less resources to improve their services, as a result of having to spend a lot of time and money to deal with complaints against them. Apart from this, some doctors might refrain from performing high-risk medical procedures, or be overly cautious by subjecting their patients to undergo medical tests which were not absolutely necessary in order to avoid complaints lodged against them.

7. DSHW(Atg) assured members that it was the Administration's objective to ensure that a high standard of service was provided to patients. To achieve such objective, the Consultation Document on Health Care Reform had proposed to enhance quality assurance through continuing education, systems support, such as clinical audit, and regulatory efforts; and to have a patient complaint mechanism that was unbiased, transparent and credible to enhance public confidence in health care services.

8. The Chairman said that apart from improving the complaint handling mechanism of the Medical Council, there was a need to also review the complaint mechanisms of other health care professional regulatory bodies, private hospitals and hospitals managed by HA, in order to instill greater public confidence in the health professionals and providers.

9. DSHW(Atg) responded that the Administration agreed that when reviewing the patient complaint handling mechanism, the existing regulatory system of other professional organisations should also be examined. DSHW(Atg) explained that the reason for dealing with the complaint handling mechanism of the Medical Council first was because the process of lodging complaints against doctors was of the greatest concern to the public.

10. As regards the complaint handling mechanism of private hospitals, Assistant Director of Health (ADH) said that all private hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) were required to have such a mechanism in place. Firstly, each private hospital was required to appoint a patient relation officer who would receive, investigate and resolve complaints received. Secondly, it had to put up in prominent places within the hospital premises notices regarding the channels of complaints, namely, the patient complaint officer of the hospital, the Department of Health (DH), the Boards and Councils of respective medical and paramedical professions and the Hong Kong Medical Association Patients' Rights and Responsibilities Hotline. Thirdly, it was required to submit to DH on a monthly basis, a complaint digest providing a summary on the nature of complaints and the outcome of investigation.

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11. ADH further said that DH also undertook investigation into complaints received from clients of private hospitals. The hospital administration would be asked to provide an explanation on the allegations of the complaints and their actions in handling the complaints. Where the complaints involved system errors in hospital management and staff attitude, DH would direct the hospitals to take appropriate measures to rectify such matters. However, on issues relating to professional misconduct, the complainants would be advised to refer their cases to the respective professional regulatory bodies.

12. ADH also said that similar to other government departments, there were procedures to be followed by staff upon receipt of complaints. At the clinic level, an officer was assigned to deal with complaints from the public. If the complainants were dissatisfied with how their cases were handled at the point of delivery of service, they could always bring their cases to DH for consideration.

13. Executive Manager (Professional Services), HA gave a brief account of HA's two-tier Complaints System and mechanism for redressing public complaints. HA considered that many complaints could best be handled at the point of delivery of service. To this end, a first-tier complaint handling system was in place in all public hospitals to deal with first-time complaints lodged directly with the hospitals against their staff or services provided. Each public hospital had designated a PRO who served as a convenient focal point to receive complaints from the public. Once a complaint was received, the Hospital Chief Executive (HCE) was responsible for the proper investigation and handling of the complaint. The reply to the complainant would be signed personally by the HCE or designated senior staff of the hospital. As the second-tier complaint system under HA, the Public Complaints Committee (PCC) independently considered and decided on all appeal cases and referred complaints. To enhance the role of PCC as an independent and credible system in handling complaints, the majority of its members were lay persons and all were non-executives of HA. To ensure that PCC could effectively and competently handle allegations involving clinical management, a panel of medical experts had been established to provide PCC with independent medical advice.

14. Executive Manager (Professional Services), HA further said that over the years, PCC had strived continually to enhance its role and credibility as an independent, fair, impartial, efficient and effective public complaints mechanism of HA. As a result of recent reviews, improvements had been made to the HA Complaints System and the work of PCC in complaints handling. For examples, PCC had been reporting the progress of its work at HA's open meetings and at press briefings, a booklet on "HA Complaints System" was published last year to advise patients on how to lodge a complaint and complaint management seminars and workshops had been conducted on an on-going basis for all frontline staff.

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15. Dr LO Wing-lok asked the following questions -

- (a) Whether there been incident(s) of PCC ceasing or suspending its investigation work on a case if the case concerned was set for hearing by a court or inquiry by the Medical Council; and
- (b) What was the amount of money which HA had paid out to the complainants during the past three years to settle complaints.

16. Responding to Dr LO's first question, Executive Manager (Professional Services), HA said that following the above-mentioned review of the HA Complaints System, the PCC had decided that it would in future not accept cases which had been reported to the coroner's court, or where a writ had been issued by the complainant. There was no restriction on Medical Council inquiry cases. He, however, pointed out that PCC might continue to consider that part of the case concerned which was not related to the coroner's case, or the writ issued. As regards the amount of money which HA had paid out to the complainants during the past three years to settle complaints, Executive Manager (Professional Services), HA said that he did not have the information on hand and there would be difficulty in finding out the exact amount paid out in each settlement case. Mr Andrew CHENG said that it was inconceivable that HA did not have the information. He surmised that the reason why HA was reluctant to provide the information was because it was bound by the confidentiality clause in the settlement agreement. To circumvent the problem, Mr CHENG suggested that HA could provide members with the total amount of money paid out to complainants during the past three years. Members would keep the information received to themselves.

17. Ms LI Fung-ying requested the Administration to give its views on the Medical Council's proposal of increasing number of its lay members from four to eight, which fell far short of public's expectation that the number of lay members should be the same as the number of medical members. DSHW(Atg) said that members of this Subcommittee had at its meeting on 16 November 2001 expressed their concern on this front and she believed the Medical Council would take this into account in finalising its reform proposals. The Administration would examine the whole package of reform proposals to be submitted by the Medical Council next month, before coming to a view as to whether the proposed increase in the number of lay members was adequate to enhance the transparency of the Medical Council. DSHW(Atg) indicated that views and suggestions of the public would be taken into account in mapping out the directions for improvement on the medical complaint system.

18. Miss CHAN Yuen-han expressed disappointment that the Administration's paper made no mention of its stance on the public call for a medical complaint office independent of the Medical Council and the Government, despite the fact that such a

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request had been made crystal clear by deputations and members at the meeting on 22 June 2001. Miss CHAN was also of the view that the fact that the Administration had not brought up its earlier proposal of setting up a Complaints Office under DH in its paper was a regression, as this showed that the Administration intended to rely on the reform proposals of Medical Council to address the matter. Miss CHAN pointed out that although the Medical Council's reform proposals, if adopted, would improve the transparency of its complaint handling mechanism, they still could not fully address the concern that doctors were biased in favour of doctors. In this connection, Miss CHAN was adamant that the tasks of receiving complaints, screening out of cases, investigation and prosecution of doctors should be handled by an independent office. Miss CHAN further said that the Administration should at least give a preliminary response on how it wished to improve the patient complaint system, having regard to the views and suggestions made by the members of the public and the major outlines of the reform proposals of the Medical Council which had already been made public. Miss CHAN requested the Administration to give a date as to when it would be in a position to brief members on the way forward to improve the patient complaint system. Mr Andrew CHENG and Mr Michael MAK voiced similar views.

19. DSHW(Atg) reiterated that as the complaint mechanism of the Medical Council was an integral part of the whole patient complaint system, the Administration considered it necessary to examine the proposals in detail, and in the process taking into account public views, before deciding how best to improve the patient complaint system. DSHW(Atg) further said that the Administration should be in a position to brief members on the matter one month after receiving the finalised reform proposals from the Medical Council.

20. Mr Michael MAK expressed strong dissatisfaction with the Administration's stance, as it was tantamount to the Administration being led by the Medical Council. Mr MAK proposed that the Subcommittee should put forward its own proposals for improving the patient complaint system to the Administration for consideration. Miss CHAN indicated support for Mr MAK's proposal. The Chairman expressed reservation about the workability of Mr MAK's proposal, as the Subcommittee's views might not necessarily represent the majority views of the Legislative Council (LegCo). He drew members' attention to the fact that the motion on mechanism for handling complaints concerning medical incidents was negated by LegCo at its meeting on 9 May 2001.

21. Given the pressing need for an unbiased, transparent and credible patient complaint system, Mr Andrew CHENG proposed to move the following motion which was submitted to the Chairman in written form -

"That the Subcommittee on improvements to the medical complaints mechanism expresses strong dissatisfaction with the Administration's lack of directions on improving the medical complaint system, and requests the

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Administration to report to this Subcommittee its directions and measures for improvement within one month."

The Chairman put the motion to vote. The motion was passed by all members present at the meeting, with the exception of the Chairman and Dr LO Wing-lok who abstained.

22. DSHW(Atg) stressed that the Administration had the determination to put in place a patient complaint system that was unbiased, transparent and credible, and there was no question of the Administration taking a regressive step in this regard. Principal Assistant Secretary for Health and Welfare supplemented that the reason why the proposal of setting up a Complaint Office under DH was not mentioned in the Administration's paper was because the great majority of deputations attending the meeting on 22 June 2001 expressed opposition to it. Besides, at the meeting on 26 September 2001, members also noted the majority of the public did not favour the proposal and requested further discussion on issues such as complaint mechanism of HA, DH and private hospitals, and the need for a new channel of complaints before it could come to a view, if any, to improve the patient complaint system. Meanwhile, any other options of improvement measures would remain open.

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

Council Business Division 2  
Legislative Council Secretariat  
10 January 2002