

**Subcommittee on Improvements to the
Medical Complaints Mechanism
LegCo Panel on Health Services
Subcommittee Meeting on 21 May 2001**

Views on Improving the Patient Complaint System

Purpose

This paper sets out our views on improving the patient complaint system for members' discussion.

Background

2. In recent years, the public started to question the effectiveness and credibility of the existing patient complaint system. It has been alleged that the present system is biased in favour of the health care providers, particularly medical practitioners, not user-friendly and non-transparent. It has been observed that the confidence of the public on the existing complaint system is declining. Trust between patients and providers is essential to sustain an efficient and effective health care system. In view of the concerns on the effectiveness of the existing complaint system in monitoring quality of patient care and protecting the interest of the public, it is necessary to review the existing system and introduce improvement measures targeting at the problems identified.

Causes of Complaints

3. Understanding the causes of complaints is an important guide to defining the role and function of a complaint system. Discrepancy between the expectation of the patient and the service received or outcome of treatment forms the basis of a complaint. Such discrepancies will lead to grievances when patients perceive the discrepancies as unreasonable. Factors influencing patients' perception may include:

- the quality of the service rendered or the attitude of the service providers;

- breakdown in communication and misunderstanding between patients and service providers;
- lack of trust in service providers;
- undue expectation from the patients due to lack of or insufficient information; and
- emotional reaction, like grieve in reaction to the loss of a loved one or to the loss of health arising from their own illness.

4. Apart from the very different psychology underlying each complaint, the objective of the complainants may also vary. While some complainants merely want to air their dissatisfaction and to look for an explanation or apology, others wish to see prompt action to improve service quality or think they deserve compensation.

5. Besides, patients will translate their grievances into a complaint only if they have trust in the complaint system. They have to believe that their concerns will be taken seriously, investigated, given a clear explanation and that appropriate follow up actions or improvement measures would be carried out by the system or organization dealing with the complaints. Moreover, they must have knowledge on the complaint channels and also know and perceive that making complaint is a basic user right before they will lodge their complaints.

Functions and Attributes of an Effective Complaint Mechanism

6. Based on the above understanding on complaints, an effective complaint mechanism which enables complaints to be pursued should act in the public interest to:

- i. investigate, analyze, identify the cause(s) of each complaint;
- ii. clarify the objective of the complainant;
- iii. provide the complainant with the necessary information and brief him on the results of the investigation of the case;
- iv. facilitate communication and mediation between the complainant and the complained in case there is a breakdown in communication;

- v. facilitate the complainant to take the complaint forward as appropriate; and
- vi. provide opportunities for self-examination and improvement.

7. Apart from that, the complaint mechanism should possess the following attributes:

- i. visible, accessible and user-friendly so that aggrieved patients will not be debarred from making complaints; and
- ii. impartial, objective and transparent in order to gain the confidence of both the patients and health care workers.

Existing Complaint System and Problems

8. At present, there are a number of channels for complaints on medical incidents to be addressed to, including the complaint mechanism of individual providers, the professional regulatory bodies, the Ombudsman, the Legislative Council and the Court of Law.

9. These different complaint channels have different functions and roles in handling complaints of different nature and at the same time, they look at different facets of a complaint. For instance, the complaint mechanism of service providers handle complaints ranging from professional practice, administrative procedures to compensation in relation to a customer perspective; the professional regulatory bodies are responsible for cases related to professional misconduct or negligence; the Ombudsman would investigate complaints related to mal-administration in public services; and the Court of Law may need to consider damages and compensations.

10. There is a need to examine how these existing complaint channels relate to each other and how well they function together to protect patient interest in order to identify problems where improvement measures should be targeted. The following main problems of the existing system are identified:

- i. though complaint channels are available, they are regarded as complex by patients and the interface between the various channels is confusing. Owing to the lack of understanding of the entire system, complainants often lodge their complaints to an inappropriate channel and as a result their objectives are not fulfilled;
- ii. the credibility of the complaint mechanism particularly for complaints against the practice of doctors had been questioned; and
- iii. the complaint process is often not user-friendly nor transparent.

Proposed Complaint Office under the Department of Health

11. Improvement measures should be targeted at the problems of the existing complaint system by adding functions to make up for inadequacies and enhancing functions that are not effectively carried out. In view of the availability of different channels of complaints and in order to assist patients to lodge complaints, we believe that it is appropriate to set up a Complaint Office within the Department of Health to handle complaints related to patient care. This is a proposal in the Consultation Document on Health Care Reform. Such an arrangement has many advantages:

- i. It can assist the complainants by clarifying the nature of complaints and the objective of the complainants. Acting as a guide to the total complaint system, it can steer the complainants to the appropriate complaint channel, thereby improving the visibility and accessibility of the complaint system.
- ii. The Office will be able to provide a user-friendly one-stop service to the complainant. It could conduct investigations into complaints, assist complainants to obtain expert advice and brief complainants on the facts of the case as known. This will also help improving the transparency of the complaint handling process.

- iii. The Office will open up an opportunity for communication between the complainants and the complained through mediation at an early stage. This will help to reduce conflicts, avoid further deterioration in the relationship and rebuild trust between patients and the health care workers.
- iv. The Department of Health is staffed with various health care professionals who can facilitate prompt investigation of the case and improve the efficiency and effectiveness of the system.
- v. The Department takes on the role of an advocate for health and a regulator to ensure quality and, as proposed in the Consultation Document on Health Care Reform, giving up eventually its direct health care services. It will therefore be well positioned to take on the task.
- vi. As a Government department, the work of the Department of Health will be automatically under the scrutiny of the Ombudsman, which provides a good mechanism of checks and balance.

Such an arrangement can of course be reviewed from time to time to see how effectively it operates and whether it has public support.

12. When devising the improvement measures, the principle of professional autonomy should be preserved and respected. Medicine is a discipline with a specialized body of knowledge. As with many other places, professionals in Hong Kong are empowered through legislation for self-regulation. It is recognized that a well-designed professional regulatory system is effective and efficient in protecting the public interest and professional standard. The proposed Complaint Office in the Department of Health will conduct investigation into cases and forward the findings to the professional regulatory body as appropriate. The power to deliver verdict and award discipline will remain with the professional regulatory body. This will facilitate prompt decision and disciplinary action, if justified, by the relevant professional body and uphold the principle of professional autonomy.

Independent Complaint Office

13. The proposal of setting up an independent complaint office had been seriously considered. There are quite a number of questions that one must address in relation to setting up of such an office, for example, how independent it should be; how the scope of the function and power should be defined; and what its relationship should be with the existing complaint channels. Having an additional independent complaint office may lead to the following problems:

- i. Taking on the role of a regulator, apart from regulating the operation of private hospitals and sales of drugs, the Department of Health will also enhance the regulation of clinics and the use of medical equipment and devices. Since complaints may be reflecting problems in the operation of the medical institutions, there is a need for the Department, as the regulatory and licensing authority, to investigate into the case. Having an independent office may duplicate such functions and add confusion to the already complex system and create even greater problem in the interface between the various complaint channels.
- ii. Autonomy of the health care professions will be eroded, which may have serious spill over effect to other professionals.
- iii. There will be serious resource implications if the office is going to employ various categories of health care professionals to support its work.

Reform of the Medical Council of Hong Kong

14. The primary purpose of the professional regulatory body is to protect the public from incompetent practice, to maintain public confidence in the profession and to maintain the integrity of the profession. As a complaint may reflect that the practice of a health care professional is not up to standard, one of the primary objectives of an effective complaint system is to monitor quality of service provided and rectify any deficiency identified.

15. The recent public discussions revealed that the Medical Council of Hong Kong (the Council) has to evolve and develop in order to meet the changing public expectation and societal needs. The Council is taking active steps in this direction with the setting up of the Working Group on Reform of the Medical Council to review the structure, composition and the functions of the Council aiming to strengthen accountability, transparency and fairness; and to ensure high standard of medical care. The Council has planned to come up with recommendations on reform measures in several months' time.

16. Meanwhile, the Government will maintain a dialogue with various concerned parties to ensure coordinated work for the improvement of the patient complaint system.

Health and Welfare Bureau
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