

**Submission to the LegCo Panel on Health Services
Subcommittee on improvements to the medical complaints mechanism**

Main Points

1. We object to the Government's proposal of setting up a Complaints Office in the Department of Health.
2. We propose that the present complaints mechanism can be improved.
3. We are open-minded to other proposals that may improve the complaints mechanism.

重點

1. 我們反對政府在衛生署設立申訴處的建議。
2. 我們建議改善現行的投訴機制。
3. 我們對其他投訴機制的建議保持開放態度。

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***Extract from the Joint Submission to Government in response to
the Consultation Paper on Health Care Reform***

by

*Association of Licentiates of Medical Council of Hong Kong
Association of Medical Practitioners of Societies' Clinics
Association of Private Medical Specialists of Hong Kong
Australian Doctors and Dentists Association of Hong Kong
Canossa Hospital Doctors' Advisory Committee
Government Doctors Association
Hong Kong Chinese Medical Association
Hong Kong Dental Association
Hong Kong Private Hospitals Association
Hong Kong Public Hospitals, Department of Health and University Doctors Association
Hong Kong Public Doctors Association
St. Paul's Doctors Association
North American Medical Association
Hong Kong Society of Health Executives
And
The Hong Kong Medical Association*

The Complaint System

In paragraph 12(e) of the Consultation Document, it was stated as a principle that "a high standard of health care services, (is to be) ensured by a dual system of accountability, comprising regulatory, accreditation and monitoring mechanisms by Government and quality assurance by health care providers."

The Department of Health has been proposed to be the executive arm of the Government in exercising control over health care professionals.

If the general out-patients' clinics and other direct health care services of the Department of Health were taken over by the Hospital Authority, the Government will no longer be providing health care services directly. The roles of the Government in health care will then be:

- 1) policy setting*
- 2) funding the public services*
- 3) control and regulation of health care providers, and*
- 4) "health advocate" and health monitoring*

The Government will be in a position to set policies and standards, but at the same time do not have to implement these policies and do not have to provide services to meet the standards she set. She will, however, be in a position to regulate and to sanction healthcare provider who were not able to implement the Government's policies and were not up to the Government's standard.

The Government will take up the politically more comfortable role as the "people's advocate" by providing a limited budget to the public health care service providers, regulate them and pressurise them to meet the unlimited demand and expectation of the public.

There is a clear tendency for the Government to mislead the public that maintaining "high standard" of the health care services is the sole responsibility of the health care professionals.

It was stated in paragraph 79 of the consultation document that "The Hong Kong population is entitled to a health care system that can consistently maintain and provide a high standard of service. As leaders of the health care system, all health care professionals - medical practitioners, nurses and allied health professionals - have the responsibility to ensure that such high standards are always achieved."

While health care professionals are accountable for their professional performance, the responsibility to ensure a high standard of health care service is not entirely theirs.

The quality/standard of health care services depends not only on the professional performance of the health care professionals, but depends also on a number of factors, to name a few:

- i) health care policies*
- ii) resources, and*
- iii) appropriate management*

The strategy of the Government to mislead the public will back fire.

Given a limited budget there is a limit on the output of the public sector. There is also a limit on how much further the public sector could be made more efficient by measures such as the Enhancement of Productivity Program (EPP). There is a limit on the workload and stress “flesh and blood” can take.

Staff grievances will increase. There will be protests. As a matter of fact, extremely violent protests of the health care professionals have been witnessed in the region recently.

“Medical Incidences” will increase. More and more patients with unmet expectation will complain. All these will add to the workload of the health care professionals.

A central issue of the Hong Kong health care reform is not the complaint system but unmet expectations of the public.

Policy errors of the Government are largely responsible for the unmet expectations.

We submit that:

There is in existence ample channels for the public to make complaints concerning adverse medical events. We have the criminal courts to take care of events that could amount to criminal offences; the civil court to take care of redress or damage; the coroner’s court to investigate the causes of deaths; the Medical Council of Hong Kong and the supplementary medical professional boards to discipline professional misconduct. What is lacking is an independent body to look into system faults and policy errors. The Department of Health being under the Health & Welfare Bureau is not independent of the government’s health care policy makers, and is therefore not suitable for taking up this function.

We therefore propose:

- 1. To set up an independent mechanism with the power and expertise to monitor the Government’s health care policies, to investigate adverse health care outcome resulted from policy errors, and to sanction the responsible Government departments and officers; the function of this mechanism shall not overlap with the function of the existing channels of complaint;*
- 2. Government in conjunction with the health care professions to educate the public on the function and operation of the existing channels of complaints, and on the role of an independent judiciary as the final adjudicator of all medical complaints; and*
- 3. Government to strengthen the investigative function of the Medical*

Council, for example, by seconding senior doctors from the Department of Health to serve as Investigation Officers for the Preliminary Investigation Committee of the Medical Council. The Investigation Officers shall work under the instruction of the Medical Council. Similar arrangement can be made to strengthen the investigative function of other professional boards.