

香港西醫聯會

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

**Introduction**

The Hong Kong Doctors Union consists of more than 1,600 registered medical practitioners in Hong Kong with majority in private practice, as well as some in public services. Most of us are practising family medicine, in close contact with the Hong Kong community.

**The present mechanism**

Apart from medical practitioners, there are many areas involved in medical complaints, such as the medical delivery systems, health organizations such as Hospital Authority, Department of Health, Health Maintenance Organisations or Managed Care Companies, medical insurance companies, Dentists, future Chinese Medicine Practitioners, chiropractors, nurses, physiotherapists, paramedical staffs, even drug stores, beauticians (now beauticians are using powerful medical lasers), unregistered doctors and health food businesses.

The main problem with the present medical complaint system is a total lack of centralized body to cater for such diversity of health care delivery services. The public is at a loss as to which bodies/departments to approach for complaints on medical mishaps or other medical issues. The present system is inadequate, too fragmented and not user-friendly to the public. After all, it is not trusted by the public.

**Proposal of Complaints Office under the Department of Health by the Health and Welfare Bureau**

We object to the idea of setting up of another complaints office under the Department of Health since :-

1. The proposed office will put pressure on the regulatory bodies of various disciplines to consider more cases complained of as guilty especially when the Healthcare Reform Consultation document clearly stated "Since substantial amount of work has already been gone into the case, the regulatory body should be able to make a quick decision on whether or not to institute disciplinary proceedings";
2. Such office will be embarrassed or reluctant to examine faults in the system or to criticize her superiors;
3. It is not appropriate for government departments to be involved with direct regulation of professionals. For example the Public Works Department should not be regulating engineers and the Department of Justice should not be regulating lawyers directly.

**Proposed Centralized Medical Complaint Office (CMCO) by the Hong Kong Doctors Union**

The Hong Kong Doctors Union considers the set up of any Medical Complaints Mechanism should be fair to both patients and healthcare providers. There must be channels to investigate faults and restrictions of the system under which healthcare providers have to work.

We believe the interests of patients can be best served when healthcare providers be given due respect and trust. While opening up Medical Complaints Mechanism more to allow lay person's increased representation, the autonomy of any medical or paramedical profession should also be safeguarded.

The Hong Kong Doctors Union proposes to set up an independent body such as a Centralized Medical Complaints Office (CMCO) which handles all complaints. There should be adequate input from the medical and allied professions into this office since only they know exactly how to pass judgment on the medical aspects of a case. The investigation power of this body should be limited to getting experts' opinions and getting prima facie evidences or fact finding.

There ought to be a built in deterrent mechanism so that frivolous, ill-founded or fraudulent complaints will not flood the CMCO. This CMCO would be funded by the government. It will filter cases and those found to be requiring further actions will then be referred to the respective disciplinary bodies like the Consumer Council, Public Complaints Committee of the Hospital Authority, Nurse Council, Dental Council, Medical Council, Chinese Medical Council etc. Those complaints due to misunderstanding or without substantial evidence will be discharged by the CMCO with mediatory explanation given to the complainants and letters of advice, if necessary, to the concerned health care providers.

The following is a suggested model of the CMCO :-

(A) Role :

- (1) Simple, one stop and user-friendly medical complaint body for the public;
- (2) Exercise mediation and reconciliation;
- (3) Act as a "Traffic director".

(B) Composition :

They should at least include :-

- (1) Expertise from various health disciplines;
- (2) Laymen;
- (3) Retired judge or legal person;
- (4) LegCo representatives;
- (5) Consumer Council representatives;

(C) Finance :

- (1) Funded by the Government.

(D) Power :

- (1) Investigation power limited to getting prima facie evidences and experts' opinions;
- (2) Correspondences or interviews with complainants and health care providers.;
- (3) Regular meetings with preliminary investigation bodies of various disciplinary boards for collaboration.

(E) How is it different from Complaint office under Department of Health?

- (1) Not Government led and more independent

(F) Advantages of CMCO :

- (1) Easy for the public because it is unique and user-friendly;
- (2) Mediation process will screen off more than 80% of complaints whether due to misunderstanding or without substantial reasons which help to decrease unnecessary workload to various disciplinary boards;

- (3) An independent third party to screen off cases for various disciplinary bodies will alleviate public concern that professions are protecting their own professions.

### **Proposed changes in the Medical Council**

At present, the Preliminary Investigation Committee (PIC) of the Medical Council is overworked with unsubstantiated cases. There is no involvement of lay member in the preliminary screening exercise. Other problems of the PIC are lack of resources and its investigation power is limited. We propose to increase the transparency of the Medical Council of Hong Kong to be absolutely fair to both patients and doctors. Thus the composition of the PIC can include more lay persons but they should not make up to more than one third of the members of the PIC. However we think it will be a good idea if one lay member of the PIC can join the Chairman and the Deputy Chairman of the PIC to do the initial screening process. More investigation power should be vested with the PIC but short of warrant and seizure on a Doctor's clinic. Also, the public concern of impartiality of the inquiry panel has to be addressed.

In essence, the changes suggested by HKDU for the following bodies are :

#### **(A) PIC**

- (1) One lay member together with Chairman and Deputy Chairman of the PIC to screen cases initially;
- (2) More laymen in the committee of the PIC but not more than one-third of the total number of members in the PIC;
- (3) More investigation power vested to the PIC but short of search and seizure of doctors' offices ;

#### **(B) Inquiry**

- (1) Panel of inquiry may include more laypersons;
- (2) Inquiry panel best headed by person with sound legal knowledge such as a judge;
- (3) The number of persons in the inquiry panel should be limited to seven with a legal person as chairman, two laypersons, two doctors in private practice and two doctors in public service.

### **Conclusion**

The Hong Kong Doctors Union proposes a Centralized Medical Complaints Office (CMCO) to handle all types of complaints coming from medical and related services, making it easier for the public.

In the Medical Council of Hong Kong, we propose to increase the number of lay persons in the PIC and to add one lay person to participate in PIC's initial screening while the chairman of the Inquiry Panel would better be a legal person.

These changes will meet the demand for improvement in the current complaints mechanism's transparency, impartiality and will regain public confidence.

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