

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

**Problems of the Existing Patient Complaint System and
Proposed Directions for Improvement**

Purpose

This paper reviews the key problems of the existing patient complaint system and proposes directions for improvement.

Background

2. In recent years, there has been increasing public concern on the effectiveness and credibility of the patient complaint system and demands for a redress of the existing mechanism. We need to review the existing system to identify key problem areas and the directions where improvement measures could be focused.

Problems of the Existing Complaint System

3. Analysis of the opinions of the public and views of health care professionals and patient groups, including those expressed during the previous meetings reveals the following problems in the existing system:

- i. The credibility of the complaint mechanism handling complaints against the practice of doctors has been questioned. Although complaint channel is available, there is room for improvement in the complaint process of the Medical Council of Hong Kong (HKMC) in terms of transparency to users. It has been alleged that it is difficult for doctors to testify against other doctors. As a result, the verdicts of inquiries are often biased in favour of the doctors. The public discussions on the recent inquiry cases by the HKMC also indicate that the confidence in the existing patient complaint mechanism of the HKMC is declining.

- ii. At present, there are a number of channels where complaints on medical incidents can be directed. Currently, individual health care providers including the Hospital Authority (HA), Department of Health (DH) and private hospitals, and professional regulatory bodies handle the vast majority of patient complaints. While it is considered that adequate complaint channels are available, different complaint channels have different functions and roles in handling complaints. For instance, the complaint mechanism of service providers handles complaints from a customer perspective; the professional regulatory bodies look after cases related to professional misconduct or negligence; the Ombudsman investigates complaints related to mal-administration in public services; and the Court of Law deals with damages and compensation. As the complainants are unfamiliar with the roles and complaint handling procedures of individual complaint channels, they sometimes lodge their complaints with an inappropriate organization. As a result, their objectives of filing the complaint are frustrated and the accessibility of the entire complaint system is called into doubt.
- iii. Members of the public are in general not aware of the ambit of HKMC. As set out in Section 21(1) of the Medical Registration Ordinance, HKMC only has disciplinary powers over a registered doctor who commits an offence as defined in the Ordinance. Among the various offences liable to disciplinary action under the Ordinance, professional misconduct is the only one which has direct relation to patient care. Complaints related to other aspects of patient care, such as the attitude or performance of a doctor, are outside the disciplinary power of HKMC. According to HKMC's complaints statistics for the year 2000, out of the 193 actionable complaints received, 77 cases (or 40%) were dismissed at the initial stage of processing. These cases were dismissed because they were not related to professional misconduct or were considered frivolous or groundless. Owing to the lack of understanding on the roles of HKMC and what constituted professional

misconduct, patients find it difficult to accept the decisions of dismissal.

- iv. As to the time required for processing complaints, the HKMC may take more than a year to handle complex cases, which some patients find it unacceptably long. In addition, the lack of knowledge on the detailed complaint handling procedures and the long lead time in processing some cases has led to the impression that patients' complaints are not properly and equitably dealt with.
- v. Members of the public have raised doubts over the composition of the HKMC. There have been calls for stronger representation of lay members to achieve a better balance between the number of professional and non-professional members in HKMC.
- vi. Under the existing structural arrangement, the HKMC also assumes the role of the inquiry panel. There are criticisms that this would result in a biased inquiry process.

Directions for Improving the Patient Complaint System

4. To ensure that improvement measures are effective and efficient, they should be well-targeted and focused to address the problems identified. To address the problems in the existing system, it is suggested that the improvement measures may take the following directions:

- i. Among the professional regulatory bodies, statistics revealed that the number of complaints against doctors is the highest. For the year 2000, a total of 227 complaints were received by the HKMC comparing to 87 by the Dental Council, 5 by the Nursing Council, 2 by the Midwives Council, 8 by the Optometrist Board, 2 by the Medical Laboratory Technologist Board, 1 by the Physiotherapists Board and none for the Occupational Therapists and Radiographers Boards. Coupled with the public concerns on the mechanism for handling complaints against the practice of doctors, measures should be focused on improving the complaint mechanism for the HKMC. The HKMC has

undertaken a reform exercise to review its structure, composition and functions, with a view to strengthening its accountability, transparency and fairness. We understand that the recommendations are being fine-tuned. We are awaiting the submission of the finalized reform proposals from HKMC. As the complaint mechanism of the HKMC is an integral part of the whole patient complaint system, we shall examine in detail each of the reform proposals upon receipt of the proposals.

- ii. The organizations concerned should enhance the communication to the public of the functions and roles of their respective complaint mechanism and handling procedures. At the point of lodging the complaint, complainants should also be provided with the necessary support and assistance to help clarify the nature and objective of their complaint with a view to mediation, if considered appropriate. Guidance on recourse to the appropriate complaint channel should be offered to patients to minimize the chance of the case being misdirected to an inappropriate channel. All these could improve the transparency, accessibility and user friendliness of the whole complaint system.
- iii. As agreed at the previous meetings, any improvement measures should give due respect to professional autonomy.

Advice Sought

5. Members are invited to note the problems identified in the existing complaint system and comment on the suggested directions for improvement.

Health and Welfare Bureau
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