

香港特別行政區  
立法會衛生事務委員會  
郭家麒主席

(煩請衛生事務委員會秘書陳曼玲女士轉交)

郭主席:

**香港西醫工會意見書第二部份**  
**要求立法規管醫療保健組織(HMOs)\***

香港西醫工會根據香港職工會條例成立，照顧公私營醫生的僱主與僱員關係。

本會要求政府立法規管所有為病人提供任何形式治療的醫療機構，請參閱本會在 2006 年 2 月 7 日提供的意見書 (附件一)。

本會收到眾多會員投訴有關 HMOs 的不正當行為。這些不正當行為不單影響醫生診療的運作，還嚴重危害公眾健康，造成極大的影響。

於 2006 年 3 月，為了收集眾多會員對現今香港 HMOs 制度的意見，本會向會員發出問卷調查 (附件二)。調查發現 100% 會員 (102/102) 同意需要正規地立法去規管香港的商營 HMOs；92% 會員 (93/102) 同意現今 HMOs 制度限制醫生對病人的照顧，例如限制使用適當的藥物、化驗與 X 光檢查等。

同時香港西醫工會也留意到於 2006 年 2 月 15 日有傳媒向公眾進行有關電話抽樣調查 (附件三)，結果顯示在受訪的二百六十六名市民中，有八成七同意當局應儘快立法規管 HMOs 的運作以保障市民的健康。

以下是一些例子指出這些 HMOs 如何薄待醫生和漠視公眾的健康。

1. 一間香港龐大的 HMO 公司定下不切實際的目標給契約醫生：「維持普通科治療的覆診率低於 10%，維持專科治療的覆診率低於 15% (同一病人要相隔四天才可接受相同或有關治療的覆診)；維持治療成本低於 \$30；維持轉介專科率低於 10%；維持轉介化驗率低於 5%；維持處方藥物率低於 5%」。這些不切實際的目標限制及約束令契約醫生的專業判斷受阻，更甚者更會延遲病人接受更適當的治療，包括專科治療。
2. 一間醫療保健組織要求他們的契約醫生向於晚上九時後來求診的病人收取 \$140 現金，病人翌日可持由醫療保健組織發出的醫療卡得到「批核」後退還現金。這可能違反了診所的會計記錄及涉嫌抵觸稅務局條例。

### 3. 非法及未達水平的醫務行醫

- 3.1 一間醫療保健組織礙於其收費低廉的限制，竟要求旗下契約醫生對香港某大型公司的員工只可處方有限量的藥物。
- 3.2 一間醫療保健組織強迫無專科經驗的醫生在沒有任何監督之下作出專科性範疇內的治療。一明顯例子為一年青醫生因被定下目標配額而被迫使用皮膚美容治療產品及其有關治療程序如激光或彩光。這可憐醫生無奈地被迫製造「個案」以求達標，否則他便要接受懲罰。
- 3.3 病人只可留院一天去接受帶有創傷性的檢查、如大腸內窺鏡檢查。但如果在檢查當中不幸地發生意外，病人本身的健康便會缺乏保障。
- 3.4 一間醫療保健組織所聘請的註冊執業醫生在不知情的情況下與一未有註冊資格的醫生一起工作。
- 3.5 一間醫療保健組織診所竟非法聘請一位未持有註冊執業認可資格的「醫生」作為其夜診醫生。
- 3.6 醫療保健組織利用他們的僱員（註冊執業醫生）代公司購買危險藥物。但當醫生離職或公司倒閉後，這些危險藥物的監管便會成疑，可能失蹤或追尋不果。此會對公眾造成極大威脅，並引起藥物濫用及安全的問題。
- 3.7 醫療保健組織以極不合理的「低廉」價錢、如港幣 80 元包括診金及三天藥物，要求其契約醫生作出醫療診治及處方，這將不能避免地降低對病人的醫療質素。
- 3.8 使用非香港註冊的流感疫苗。
- 3.9 一間醫療保健組織只批准心電圖測試在其指定的化驗所內進行，但縱使轉介的醫生作出要求，檢查結果是不會附有心臟專科醫生撰寫的報告。

### 4. 病人的付出與所得到的治療並不相符

一間香港龐大的 HMO 對客戶收取不同的費用，但無論如何，對個別醫生的賠償都是一樣。即是，不管你付予 HMO 的金額是多少，醫生所得的費用是無任何分別，即病人只享有相同等額的醫療服務。到最後，這筆額外利潤只會流進 HMO 的口袋中，完全徹底地扼殺消費者的權益。

## 5. 醫療費用缺乏透明度

一間 HMO 明確地警告契約醫生"絕不可"向病人透露每次的診症費及在病人不知情的情況下收取診金中的 15% 作為行政費用。這明顯不符合現時香港醫務委員會的專業守則。

這些只是其中一部份 HMOs 在過去 10 年多來的不正當行為，假如香港政府再不立法嚴厲監管，必定會危害香港普羅大眾的健康。因此，我們誠懇地強烈要求政府儘快通過立法去監管所有醫療保健組織，使它們被納入香港醫務委員會及醫務註冊條例監管之下。

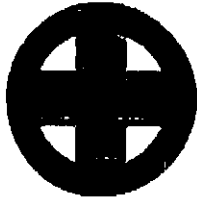
香港西醫工會義務秘書  
何岳齡醫生

二零零六年三月二十五日

\* 私人牟利醫療保健組織包括那些註冊機構、公司、社團等以

- (1) 直接或間接提供醫療服務；
- (2) 直接或間接影響醫療服務提供的模式。

去榨取利潤。

**香港西醫工會****HONG KONG DOCTORS UNION**

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Appendix 1 (1/5)

Our ref: HKDU/016/2006

7<sup>th</sup> February 2006By fax & mail

Ms. Doris Chan  
Clerk to Bills Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

Dear Ms. Chan,

**Regulation of private profiteering Health Maintenance Organizations**

Hong Kong Doctors Union is established under the Ordinance of Trade Union in Hong Kong and looks after the employer – employee relations of public and private medical practitioners.

We have been negotiating with the Department of Health since early 90's on the Incorporation of Medical Practice since the introduction of Health Maintenance Organizations (HMOs) and have urged the Director of Health to speed up the drafting of the necessary amendments to the Medical Clinic Ordinance (MCO) or the new legislation on incorporation of medical practice, and to state explicitly the following points in the relevant ordinances:-

- (1) It is legal for the medical practitioners to incorporate their private medical practice no matter it is a profit making or non-profit making concern.
- (2) The percentage of shares in such incorporated private medical practice owned by doctors should be equal to or more than 90% of the entire issued share capital of the company. (Annex A)

There are two good reasons to speed up the drafting of the necessary amendments to the MCO or the new legislation on incorporation of medical practice:-

- (a) Medical practitioners should have the same legal right as other professions viz. Accountants, Lawyers and Dentists, to incorporate their medical practices;

Cont./P. 2



# 香港西醫工會

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Appendix 1 (2/5)

Our ref: HKDU/016/2006

P. 2

- (b) By restricting the ownership of the incorporated private medical practice to medical practitioners, it is hoped that we can stop non-medical people from playing a dominant role in the private health care system of Hong Kong. Otherwise, the standard of medical care in the private sector will be jeopardized.

In one of the reply letters from the Department of Health in 1998 (Annex B), the Director of Health stated explicitly that the Administration had taken up this issue and sought legal advice on the way forward. However, we have not received further progress since.

Side effects of the unregulated HMOs have surfaced in the past years since then and the most recent one is the import of illegal flu vaccine, which is detrimental to the health of the community at large. There are of course many ways by which the private profiteering HMOs somehow manage to force the young and un-experienced doctors to provide service to the community which is either unethical or without evidence based like trimming of body fat, increase libido, using Laser or IPL without adequate experience and training and even associated with unregistered medical practitioners unknowingly. The community welcomes the numerous 24 hours clinics in the market but fails to recognize the predicament of the staff working behind the scene under highly stressful conditions, which threaten the quality of medical services provided.

For the protection of the public and the maintenance of good medical care, a more stringent control of these HMOs is called for.

Yours sincerely,

Dr. Ho Ock Ling Thomas  
Hon. Secretary  
Hong Kong Doctors Union

Encl.

Outgoing13

**香 港 西 醫 工 會**  
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**Annex A**

**1. Companies of Medical Practitioners**

A body corporate may carry on the business of medical practice if it carries on no business other than medical practice or some business ancillary to the business of medical practice.

*(Dentist Registration Capt. 156/12, No. 12 is referred)*

**2. Qualification for registration of company as corporate practice**

**2.1 Company with three or more members**

Where a qualified company has 3 or more members -

- (i) each of its members shall be both a director of the company and a registered medical practitioner, and only persons who are members of the company may be a director of the company;
- (ii) the registered medical practitioners of the qualified company shall at all times be covered by professional indemnity insurance.

**2.2 Company with two members**

Where a qualified company has only 2 members -

- (i) 1 such member shall be a registered medical practitioner and the other such member shall be either -
  - (A) a registered medical practitioner; or
  - (B) a person in relation to whom a permission under Appendix A is in force.  
and only persons who are members of the company may be a director of the company.
- (ii) the registered medical practitioners of the qualified company shall at all times be covered by professional indemnity insurance.

**香 港 西 醫 工 會**  
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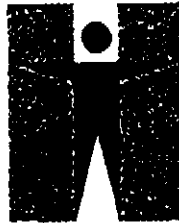
Appendix A

A permission for the purposes of this section shall be granted if, and only if, the Medical Council is satisfied that -

- (i) in respect of the shareholding of the applicant company, a legally enforceable arrangement exists whereby -
  - (A) **a person who is a registered medical practitioner is to hold equal to or more than 90% of the entire issued share capital of that company;**
  - (B) **the person holding the remaining shares holds it in trust for the holder referred to in subparagraph (i)(A);**
  - (C) in case the person referred to in subparagraph (i)(B) resigns, dies, or due to mental or physical incapacity becomes unable to act as a director of the applicant company, or in case a permission for the purposes of this section and relating to him is withdrawn, his share will devolve to another person; and
- (ii) the person specified in the application is a fit and proper person to whom to give a permission for the purposes of this section; and
- (iii) in respect of the management of the applicant company, its memorandum and articles of association contain provisions to the effect that -
  - (A) the holder referred to in subparagraph (i)(A) is to be the managing director having the day to day management of the company;
  - (B) such holder is to have a second or casting vote at meetings of the applicant company's board; and
  - (C) a person referred to in subparagraph (i)(B) is to cease to hold office as a director on his share's devolving to another person as described in subparagraph (i)(C).

*(Professional Accountants (Amendment) Bill No. 85/1995, 28D is referred)*

香港特別行政區政府  
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香港灣仔皇后大道東213號  
胡忠大廈17及21樓



THE GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION  
DEPARTMENT OF HEALTH,  
WU CHUNG HOUSE, 17TH & 21ST FLOORS,  
213 QUEEN'S ROAD EAST, WAN CHAI,  
HONG KONG.

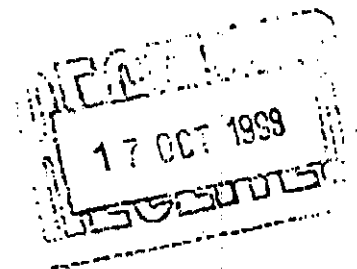
Appendix 1 (5/5)

Annex B

本署檔號 OUR REF: (75) in DHHQ/1010/22/1 Pt. 4  
來函檔號 YOUR REF:  
電話 TEL.: 2961 8894  
圖文傳真 FAX.: 2836 0071

14 October 1998

Dr Yeung Chiu Fat  
Chairman  
Estate Doctors Association  
Room 901 Hang Shing Bldg.,  
363-373 Nathan Road  
Kowloon



Dear Dr Yeung,

**Incorporated Medical Practice**

Thank you for your letter of 28 September 1998.

You may wish to know that regarding the legality of incorporated medical practice, the Department of Health has sought legal advice from the Department of Justice. We have been advised that the Medical Clinics Ordinance enacted in 1964 provided for the registration of charity clinics operating in Hong Kong, many of which were maintained by unregistered doctors. The intention of the Ordinance is not to regulate profit-making practices whether owned by medical professionals or non medical professionals. I hope this has clarified the position of legality of incorporated medical practice.

Thank you for your attention.

Yours sincerely,

P.A. file  
Agenda

10/98/18

(Dr Monica WONG)  
for Director of Health

*We are committed to providing quality client-oriented service*



**香 港 西 醫 工 會**  
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**Appendix 2**

24.3.2006

**Results of Questionnaire on Health Maintenance Organisations**

In order to collect the views from members on Health Maintenance Organisations, the Hong Kong Doctors Union sent a questionnaire to 1,746 members on 10.3.2006.

As at 24.3.2006, 102 members (5.84%) returned the questionnaire to HKDU. The preliminary results of the survey are :-

		Agree	Disagree	Abstain	Total
1.	Do you agree that formal legislation is necessary to regulate the Commercial Profiteering HMOs in Hong Kong?	102 (100%)	0 (0%)	0 (0%)	102 (100%)
2.	Is the present HMO system restricting your management care to your patients, such as restriction of the use of expensive medication, restriction of laboratory and radiological investigations, etc.?	93 (91.18%)	0 (0%)	9 (8.82%)	102 (100%)

Results of Questionnaire on HMO/DrsRight

## 10. 涉不道德經營激增 予人壞印象 醫療集團須規管

本港公私營醫療發展迅速，私營醫療集團更如雨後春筍般愈開愈多，消費者委員會收到市民投訴醫療集團涉及不道德經營的個案亦激增，去年達到五十一宗，比較兩年之前增加四倍。「太陽民意」調查發現，接近九成受訪市民認為針對醫療集團的投訴激增，顯示問題十分嚴重，恐會影響市民健康；同時有七成受訪者表示對醫療集團印象欠佳，支持政府立法規管。

### 分析結果

香港醫學會、西醫工會等團體日前參加立法會衛生事務委員會時，紛紛指摘醫療集團運作不受規管，前線醫生在集團工作時，有人被迫從事與專業守則相違背的事。「太陽民意」透過電話抽樣訪問了二百六十六名市民，了解他們對醫療集團經營手法的意見，結果發現，接受調查的市民，共有近九成受訪者批評醫療集團經營手法對市民健康有嚴重影響，其中五成四受訪者表示，醫療集團以不道德手法經營，會影響患者；同時有三成半受訪者認為，針對這類集團的投訴，短短兩年間激增四倍，當局不應忽視。

### 電話滋擾令人煩厭

調查了解市民在醫療集團就診後，對有關集團的服務意見時，逾七成受訪者表示不佳及不理想，其中四成三受訪者表示，往醫療集團轄下診所就診時，發現醫生診症較馬虎，求診一段時間亦未痊愈；另有三成受訪者表示，不時收到醫療集團的滋擾電話，令人煩厭。只有一成二受訪者表示，醫療集團診症價錢便宜，病人可得益。

日前，多個醫療界團體出席立法會衛生事務委員會時，要求衛生福利及食物局立法監管醫療集團運作，避免前線醫生被迫違背專業守則，接受調查的市民中，八成七受訪者都表示，支持當局盡快立法，限制醫療集團運作，避免市民投訴繼續上升；同時有三成受訪者表示，既然有多個醫療界組織不滿醫療集團的手法，政府不應輕視，有必要研究是否盡快立法。只有不足百分之五點五的受訪者認為，本港醫生已有專業守則監管，毋須另行立法。