



香港西醫工會

HONG KONG DOCTORS UNION

Room 901, Hang Shing Bldg., 363-373, Nathan Road, Kowloon.
 E-mail: hkdu@hkdu.org Home Page: <http://www.hkdu.org>
 Tel. no.: 2388 2728 Fax no.: 2385 5275

LC Paper No. CB(2)1026/05-06(06)

Our ref: HKDU/016/2006

7th February 2006

By 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.

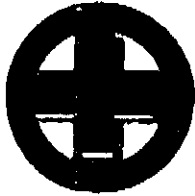
We have been negotiating with the Department of Health since early 90's on the Incorporation of Medical Practice since the introduction of Health Maintenance Organizations (HMOs) and have urged the Director of Health to speed up the drafting of the necessary amendments to the Medical Clinic Ordinance (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;

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- (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

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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.

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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)

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衛生署
香港灣仔皇后大道東213號
胡忠大廈17及21樓



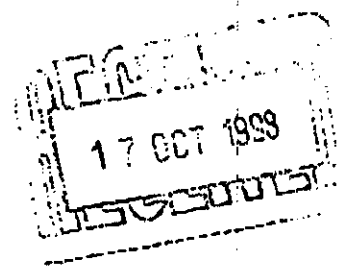
THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION
DEPARTMENT OF HEALTH,
WU CHUNG HOUSE, 17TH & 21ST FLOORS,
213 QUEEN'S ROAD EAST, WAN CHAI,
HONG KONG.

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

Annex B

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 your for your attention.

Yours sincerely,

*P.A. file
Agenda*

10/98/1.8

(Dr Monica WONG)
for Director of Health

We are committed to providing quality client-oriented service