

**Consumer Council's Submission
to LegCo Panel on Health Services
on Regulation of Health Maintenance Organizations**

1. In recent years Health Maintenance Organizations (HMOs) have been growing rapidly in Hong Kong. Due to their economies of scale in operation, HMOs are able to provide convenient and cheaper health care services to the general community. The existence of HMOs enhances market competition in the provision of medical services.

2. Having said that, the sprouting of HMOs come with consumer complaints. The number of complaints to the Consumer Council against HMOs increased from 10 cases in 2003 to 51 cases last year. It is noted that the increase is mainly attributed to service standard and sales practice of HMOs. The latter relates to allegation of unscrupulous marketing strategies, lack of transparency of scope of medical benefits provided, etc. All these would jeopardize patients' interests.

3. Despite that consumers are benefiting from the services of HMOs, the Consumer Council believes that it is important to ensure the medical services provided to patients are up to professional standards.

4. In the discussion paper on HMOs of February 2006, the Administration expressed the view that the mainstay of regulation should be on regulating the professional practice of individual doctors, regardless of the business mode under which medical services are provided.

5. The Council can understand the reason given for holding such a view. However, in light of the development that some HMOs in Hong Kong are run as "incorporated medical practices", the professional relationship between medical practitioners and their patients may be affected.

6. For medical practitioners on solo practice, it is the individual doctor's sole responsibility to make decision on the choice of drugs to purchase and to use for treatment of patients. Accountability of the doctor is believed to be in the best interests of patients.

7. But for HMOs which are operated according to commercial principles, profit making is a major drive for success. HMOs being profit-oriented will seriously hamper doctor-patient relationship. In order to control cost and boost profit, chances are that some HMOs may choose less effective but cheaper drugs for use by their patients. There is a concern about substandard medical care being received by patients.

8. Further, the Council believes that it may not be practical to expect doctors employed by HMOs to have sole responsibility for safeguarding patients' health and interests. This is for reason that professional autonomy of doctors working in HMOs might risk being compromised by business and

financial considerations.

9. Medical insurance companies also play a crucial role in the private health care service system. For instance, the premium payable to insurance companies may affect the decisions of medical practitioners, in solo practice or in the HMOs, when considering the appropriate use of drugs and the medical testing need of patients. Unfortunately patients are mostly not aware of such fact.

10. All the above factors may affect the quality of medical services received by patients. For public health considerations, the Council suggests that the Administration considers regulation of HMOs through the following measures:

I. Establishing a licensing system

11. At present, HMOs only need to obtain a valid business registration certificate for provision of medical services in Hong Kong. The existing mechanism is for medical practitioners to ensure that the services provided are up to the professional standards. It is therefore expected that doctors employed by HMOs also have professional responsibilities to patients, in the course of clinical practice of a registered medical practitioner. However, the Council is of the view apart from having salaried doctors owe responsibilities to patients, owners of HMOs should also be responsible for ensuring that the services provided to patients are up to professional standard.

12. As far as the Council understands, there are certain control mechanisms in place to ensure the quality of medical services, apart from holding medical doctors responsible for patients. For example, private hospitals need to be registered with the Department of Health, and medical care professionals are subject to various professional regulatory regimes. The Council believes regulation should equally apply to any organization providing medical services to the public.

13. The Administration should consider establishing a licensing system to require all organizations which provide medical services to the public, irrespective of their mode of operation, to apply for a license. That is to say, all HMOs should be required to be licensed and report to the licensing authority. As to the detailed arrangement, such as whether a particular government department or the Medical Council of Hong Kong should become the licensing authority, it can be discussed at a later stage.

14. There are advantages for setting up the proposed licensing system. An obvious one is that the system would enable the Administration to have a systematic way of tracing and of understanding the operations of HMOs in Hong Kong. It will also assist the Administration to implement more efficient and effective control when the need arises (e.g. to check the number of people vaccinated or the progress of recalling problem drugs in the private health care sector). Information obtained through the system would give the Administration a better understanding of the health conditions of the population.

This is also in line with its long term objective of strengthening the overall regulation of private medical practices.

II. Requiring registered medical practitioner(s) to be on the board of directors of HMOs

15. In respect of the licensing condition, the Council suggests that the Administration should require some directors of an HMO or its licensee to be a registered medical doctor. This will enhance public confidence in HMOs and their accountability.

16. Currently, there are HMOs which are set up by registered doctors, or have registered medical doctors as directors. So it would not be difficult for these HMOs to satisfy the proposed licensing requirement. As far as the Council understands, medical testing laboratories also have to satisfy similar licensing requirement.

17. To avoid HMOs putting up inexperienced doctors to take up the role of directors, the Council considers it appropriate to require that only experienced doctors can act as HMO's directors.

III. Implementing a code of practice for HMOs

18. Of the HMO-related complaints received by the Council, more than half are about sales practice, and more particularly concern the selling of medical discount cards. Discount cards are a form of marketing tools and they are not unique to medical services. Medical discount cards are not different from cards under similar schemes available for other services like food and beverages, beauty care etc. The Council is, however, of the view that they should not be treated as promoting ordinary sales and purchase of goods and services as medical services concern public health.

19. At present, the Medical Council has in place a Professional Code and Conduct for the Guidance of Registered Medical Practitioners to ensure medical practitioners' compliance with appropriate procedures and standards of medical treatment in the provision of medical services for the interests of patients. However, non-medical staff, including those working with HMOs, are not subject to this Code.

20. To enhance the quality of professional service, the Council suggests that the licensing authority should consider implementing a code of practice for compliance by HMOs, in respect of professional relationship with patients, procurement of drugs, use of drugs, transparency of fees etc. As a licensing condition, HMOs would need to comply with the code.

21. The Council believes that code compliance would enhance public confidence in the service quality of HMOs. This will not only bring in a good image to HMOs but will also benefit the community as a whole. The code should cover the following essential aspects:

- all advertising and marketing materials should be truthful and not misleading to consumers;
- contract terms should be fair and clear;
- medical services provided should be of high standard and safe;
- there is mechanism in place to ensure the privacy of consumer information; and
- there is mechanism in place to effectively handle consumer complaints.

IV. Insurance protection

22. For protection of patient rights and ensuring fair playing field, the Council is of the view that HMOs should be required to purchase indemnity insurance (if they have not done so). This is to ensure that HMOs would be financially capable to compensate patients in the event of medical accidents.