

For information  
on 13 January 2012

**Legislative Council Panel on Transport and  
Panel on Financial Affairs**

**Joint Subcommittee on Issues Relating to  
Insurance Coverage for the Transport Sector**

**Information on handling patients with prolonged recovery after injuries**

**Introduction**

This paper provides information in relation with handling patients with prolonged recovery after injuries in public hospitals systems of Hong Kong and overseas jurisdictions.

**Background**

2. The Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector had deliberated the issue on exaggeration of injuries and sick leave and requested the Hospital Authority to provide information on overseas experience in dealing with cases of patients with prolonged recovery under the public healthcare system.

**Medical Certificate for Sick Leave**

3. Sick Leave Certificate is an important document issued by registered medical practitioner as part of their professional services. A sick leave certificate can only be issued after proper medical consultation of the patient by the doctor and doctors are expected to exercise care in issuing certificates and similar documents as prescribed in the Code of Professional Conduct (revised January 2009) published by Medical Council of Hong Kong. The issuance of untrue, improper and misleading medical certificate is a serious professional misconduct and renders the doctor himself to disciplinary proceedings.

4, The Hospital Authority (HA) based on the advice from Medical Council has provided general guidance to doctors employed by the HA that the medical practitioner should be fully convinced that based on his professional judgment, medical records and patient's prevailing condition that the patient was unfit for work on account of his sickness. The Medical Council of Hong Kong also regards the International Code of Medical Ethics in the exercise of its disciplinary power, including the duties of doctor to patient to act in the patient's best interest when providing medical care, and in situations when he/she is acting for a third party, ensure that the patient has full knowledge of that situation. It is therefore considered unethical for a medical practitioner in public hospital to make judgment on patient's condition and sick leave period based on surveillance tapes on other information without patient's knowledge.

### **Managing patients with prolonged recovery**

5. In general patients with unsatisfactory progress in recovery phase will be managed by the clinical teams upon consultation with senior or experience clinical staff within the team. On assessing the recovery status of patients, doctors in public hospitals take into account of a number of factors, such the nature and types of injury, the severity and relevant treatment given and the individual conditions of the patients. Different types of illnesses in different types of patients may incur different treatment and recovery course. The HA does not have protocols or guidelines specific for traffic accidents injury, rather the management for prolonged recovery is based on clinical and professional judgment, such as the types of organ system involved and the underlying pathologies relevant to the clinical teams offering medical care to patients. Therefore instituting an administrative review mechanism of prolonged recovery cases simply based on the period of long sick leave not only is inappropriate but also impinges on professional clinical autonomy.

### **Return to Work Management in Hospital Authority**

6. On handling patients with prolonged recovery, the longer a patient is off work, the lower their chances of getting back to work. Evidence shows that work has therapeutic value and is generally good for physical and mental health. There is strong evidence that long periods out of work are associated with poor mental and physical health, increased use of health services and poverty. Evidence also suggests that people with common health conditions could be helped to return to work following a few basic principles of healthcare and workplace management.

7. For the management of HA staff with absence issues, standard human resources policies regarding sickness absence are in place for the monitoring and management of sickness absences. Once identified, the HR personnel will retrieve relevant information about the work injury incidents and may approach the involved staff for further understanding of the situation. Referrals to the relevant parties, such as Occupational Medicine Clinics, medical assessment boards for further assessments for fitness for work and return to work recommendations, and for further management of the staff in return to work. The HA regularly review the management framework for handling of these cases, and engage various HA stakeholders involved.

### **Overseas Jurisdictions on Absence (Sick Leave) Management**

8. As United Kingdom and Australia have public healthcare systems somewhat comparable to Hong Kong, information of oversea experience in managing prolonged recovery are available from these two countries. Information specific to managing prolonged recovery due to traffic accidents are not available, except those related to prolonged absence or sick leave due to workers related injuries.

#### United Kingdom

9. In United Kingdom, there are at least two pieces of legislation relevant to management of prolonged recovery and payment of compensation in traffic accidents, the Health and Safety at Work Act 1974 and the Road Traffic Act 1988 respectively. The former Act laid down general principles for the management of health and safety at work, enabling the creation of specific requirements through regulations enacted as Statutory Instruments or through codes of practice. A non-departmental public body with Crown status, sponsored by the Department for Work and Pensions (DWP) and accountable to its ministers, the Health and Safety Executive (HSE), is responsible for regulating work-related health and safety in Britain. The HSE also provide guidance on 'absence management' and 'return to work policy' through collaboration with local authorities and related institutions.

10. On 17 February 2011, the British Government called for a major review of the sickness absence system Great Britain in order to help combat the 140 million days lost to sickness absence every year. The review "Health at Work – an independent review of sickness absence" was published on 21 November 2011. The review recommended, amongst other things, recommend the British Government to set up and fund a new Independent Assessment Service (IAS). The IAS would

provide an in-depth assessment of an individual's physical and/or mental function. It would also provide advice about how an individual taking sickness absence could be supported to return to work. It should be provided by approved health professionals, and be appropriately quality controlled.

11. Under the Road Traffic Act 1988 legislation, the insurer need to ask patients if they have received United Kingdom National Health Services (NHS) hospital treatment and, if so, the insurer pays the NHS's claim directly. When a person is involved in a road traffic accident and receives examination or treatment at an NHS hospital in United Kingdom, that person could subsequently claim and receive compensation in respect of the injuries sustained in the accident, the NHS can also make a claim. The amount of payment to NHS public hospitals is substantial – for year ending March 2004, the payments collected in England, Wales and Scotland totalled £105m. Unlike the case in Hong Kong Hospital Authority, a person sustained injuries in a traffic accident and received treatment at an HA hospital, HA can only recovers the nominal gazetted charges from the patient but cannot claimed the full costs incurred. HA is actually subsidizing the liabilities of the insurers. In 2004 the HA Board Strategic Workshop, members of HA raised the concern on significant potential revenue lost in treating patients with traffic accidents for which HA could not recover the full cost of treatment as if the counterparts in private healthcare sector.

### Australia

12. In Australia, every state has a government agency, the WorkCover, responsible for overseeing the workers compensation and injury management system. The WorkCover monitors the compliance of the states with legislation relevant to their states, such as the Workers' Compensation and Injury Management Act 1981 in Western Australia, the Workers Rehabilitation and Compensation Act 1986 in South Australia, and Workplace Injury Management and Workers Compensation Act 1998 in New South Wales. These WorkCover agencies inform and educate workers, employers and others about workers' compensation and injury management, as well as provide an independent dispute resolution system.

13. In its Part VII – Medical Assessment and Assessment for Specialised Retraining Programs, the Workers' Compensation and Injury Management Act 1981 of Western Australia, the Act describes the provision of Medical Assessment Panels for conflict of medical opinion on the question between a medical practitioner

engaged by the worker and medical practitioner(s) provided by the employer, amongst other functions. In addition, the Part IX of the Act, Injury Management, describes the provision of Injury Management System, Return to Work program and the Vocational Rehabilitation, in particular the responsibility of the employers in the policy of sick leave payment and rehabilitation management.

**Hospital Authority**

**13 January 2012**