

立法會
Legislative Council

LC Paper No. CB(2)334/12-13(02)

Ref : CB2/PL/HS

Panel on Health Services

**Background brief prepared by the Legislative Council Secretariat
for the special meeting on 18 December 2012**

Issues relating to the development and operation of private hospitals

Purpose

This paper summarizes the concerns of the members of the Panel on Health Services ("the Panel") on issues relating to the development and operation of private hospitals.

Background

Development of private hospitals

2. According to the Government, over 90% of the in-patient services in Hong Kong are provided by public hospitals. This has resulted in an imbalance between the public and private healthcare sectors and limited the competition and collaboration between the two sectors. While public healthcare services have been and will continue to be the cornerstone of the Hong Kong healthcare system, it is also the Government policy to facilitate the development of private hospitals to address the imbalance between the public and private healthcare sectors, as well as to enable the public to have more choices and access to affordable and high quality private hospital services.

3. The Chief Executive announced in his 2008-2009 Policy Address that the Administration was identifying suitable sites including Wong Chuk Hang, Tai Po, Tseung Kwan O and North Lantau for the development of new private hospitals. In his 2009-2010 Policy Address, the Chief Executive announced that he had accepted the recommendations of the Task Force on Economic Challenges to promote the development of six industries where Hong Kong enjoyed clear advantages. The six industries included the medical services industry and the development of private hospitals was one of the initiatives for promoting the development of the medical services industry.

4. Following an Expression of Interest Exercise launched in December 2009 to solicit market interest in the four reserved sites at Wong Chuk Hang, Tai Po, Tseung Kwan O and North Lantau, the Administration had formulated a set of new land disposal arrangements and put out the two reserved sites at Wong Chuk Hang and Tai Po for tender in April 2012. The tender exercise ended on 27 July 2012. The Administration would dispose of the other two reserved sites at Tseung Kwan O and Lantau at a later stage.

Regulation of private hospitals

5. Private hospitals are subject to the regulation of the Department of Health ("DH") on matters of accommodation, staffing and equipment under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) ("the Ordinance"). To ensure the provision of quality healthcare services to patients, DH has formulated a "Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes" ("the Code") in which the standards of good practices are set out for adoption by private hospitals.

6. Currently, there are 11 private hospitals registered in accordance with the Ordinance in Hong Kong. DH, as the registration authority, conducts routine or unannounced hospital inspections from time to time to monitor compliance of private hospitals with the Ordinance and the Code.

Deliberations of the Panel

7. The Panel held a number of meetings between 2009 and 2012 to discuss issues relating to the development and operation of private hospitals. The deliberations and concerns of members are summarized below.

Review of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance

8. While DH was empowered by the Ordinance to cancel the registration of a private hospital in the event of a contravention of the specified conditions relating to the accommodation, staffing or equipment, members noted with concern that no revocation had been made so far. In addition, DH had no statutory power to impose penalty on private hospitals for non-compliance with the Code despite that compliance with the requirements under the Code was a condition for the registration of private hospitals. Members considered the existing regulatory mechanism ineffective and that the cause of the problem lay in the deficiencies of the Ordinance which lacked deterrent effect. They urged the Administration to formulate a comprehensive policy and review the Ordinance in order to regulate private hospitals effectively, particularly in the areas of the standards of healthcare services, mechanism for handling medical incidents, transparency of medical charges and penalty for non-compliance.

9. In view of the long lead time required by the Administration to review and introduce legislative amendments to the Ordinance, some members considered that the Administration should put in place administrative measures, such as a penalty system and disciplinary actions, to effectively regulate the performance of private hospitals in the interim.

Charitable status of private hospitals

10. Members were gravely concerned about the charitable status of private hospitals. Noting that some tax-exempt private hospitals had paid huge amount of bonuses to their staff members, some members considered that this practice might cause further brain drain from the public to private hospitals and lead to an increase in service charges. They suggested that DH should issue guidelines to remind those private hospitals that their profits should apply solely for charitable purposes.

11. According to the Administration, charitable bodies applying for tax exemption had to have a governing instrument which stated their objects precisely and clearly. For charitable bodies granted tax exemption, their incomes and properties might only be used for attainment of their stated objects and any distribution of their incomes and properties amongst their members was strictly prohibited. The Inland Revenue Department would review charitable bodies granted tax exemption regularly to see whether their objects were still of a charitable nature and whether their activities were compatible with their stated objects. As regards stepping up the financial monitoring of private hospitals, members were advised that DH's power to monitor the financial return or service scope of private hospitals was limited, and DH had no statutory power to regulate the level of charges of private hospitals.

Monitoring of service charges of private hospitals

12. Pointing out that some private hospitals had increased their charges for obstetric services on admission before delivery, members expressed grave concern about the level and increases of service charges as well as the lack of price transparency in private hospitals. They urged the Administration to put in place an effective mechanism to ensure the provision of reasonably priced, adequate and priority private obstetric services for local pregnant women.

13. According to the Administration, while DH had no statutory power under the Ordinance to regulate the level of charges of private hospitals, the Code required private hospitals to, among other things, have a schedule of charges for reference by the public. DH would ensure compliance of private hospitals with the Code and that private hospitals would publish and update their pricing information, including package prices, for information of the public and patients.

Mechanism for handling medical incidents in private hospitals

14. Members noted that private hospitals were required to comply with the requirements on handling medical incidents as stipulated in the Code. DH introduced in February 2007 a sentinel event reporting system to require all private hospitals to report specific categories of sentinel events within 24 hours of occurrence of the events, investigate into the root causes of the reported

events and submit full investigation reports to DH within four weeks of the occurrence of the events.

15. According to the Administration, the Hospital Authority would consider disclosing a sentinel event in public hospitals if it had an immediate major impact on the public or involved a patient's death, while DH would consider disclosing a sentinel event in private hospitals if it had a major impact on the public healthcare system, or if it constituted a persistent public health risk or involved a large number of patients. Members were concerned about the different criteria for disclosing sentinel events in public and private hospitals. They urged the Administration to remove such discrepancies. Members also noted that private hospitals were required to develop their own policies and mechanisms to identify, report and manage sentinel events. They urged the Administration to devise a uniform mechanism for all private hospitals to follow.

16. Members were also concerned about the occurrence of the medical incidents in private hospitals, especially those cases not reported to DH within the required timeframe under the sentinel event reporting system. They urged DH to step up its efforts in monitoring compliance of private hospitals and require private hospitals to make public all sentinel events without compromising the privacy of patients concerned.

17. Given that private hospitals were responsible for conducting self-investigation into the causes of sentinel events, some members queried the impartiality of private hospitals in their investigations. They urged the Administration to establish an independent statutory Office of Health Service Ombudsman to investigate sentinel events occurred in private hospitals, with a view to ensuring that the affected patients would be properly compensated.

Development of new private hospitals

18. Some members were concerned that the Administration would reduce its spending on the public healthcare system with a view to promoting the development of private hospitals. They also expressed worry that the expansion of private healthcare services might aggravate the manpower shortage problem in public hospitals. The Administration assured members that public healthcare services had been and would continue to be the cornerstone of the

healthcare system, acting as the healthcare safety net for all. The Administration would not reduce its commitment to public healthcare services. As regards the manpower issue, the Administration advised that the Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development would conduct a strategic review on healthcare manpower planning and professional development. The strategic review, aimed to be completed in mid-2013, would assess manpower needs in the various healthcare professions, taking into account the increase in demand for both public and private healthcare services.

19. Members considered it important to ensure adequate provision of private healthcare services to address the local healthcare needs. In discussing the set of special requirements for the private hospital development at the two reserved sites at Wong Chuk Hang and Tai Po, there was a view that the minimum percentage of inpatient bed days for use by local residents per year should be increased from the proposed 50% to 70%. To provide flexibility, the lease conditions could include a provision giving the Government the right to change the requirement as and when necessary. Some members were of the view that requiring the new hospitals to cap only the number of obstetric beds at no more than 20% of the total number of beds in the hospital could not prevent these hospitals from slanting towards other particular types of healthcare services in the future. They proposed that the provision of any particular type of healthcare services exceeding the level of 15% of the total number of beds in the hospital should require approval of DH. There was also a suggestion that additional scores should be given to tenderers of the two disposed sites for the provision of Chinese medicine services in their service provision proposals, so as to promote the development of Chinese medicine in Hong Kong.

20. Concern was also raised over DH's statutory power to regulate the new private hospitals and monitor their performance, particularly setting the service charges at an affordable level and in a transparent manner. Members were advised that to address the problem of cost uncertainty and enhance price transparency, the new private hospitals were required to provide at least 30% of the inpatient bed days taken up in the hospitals each year for services provided through standard beds at packaged charge based on the "diagnosis-related groups" system, and to make available comprehensive charging information of its services for easy reference of the public and patients.

21. Some members expressed worry that the entitlement to require the tenderer to pay the Government liquidated damages was still insufficient to deter any non-compliance of performance obligations since the tenderer could fully shift the cost for liquidated damages to the patients. According to the Administration, a number of measures would be put in place to facilitate the monitoring of the operations of the new private hospitals. If the successful tenderer breached any of its obligations, the measures made available to the Government included, among others, the right to require the successful tenderer to implement a cure plan, the right to exercise step-in rights to temporarily take partial or total control of the hospital and the right to terminate the service deed. The Government might also resort to the performance guarantee and bank bond provided by the successful tenderer.

Recent development

22. Following a medical beauty incident occurred in early October 2012, there were public concerns over the need for the Government to tighten up regulation of the beauty industry and calls for the Government to review and improve the legislation regulating private healthcare facilities, having regard to the development in medical practice and technology, as well as international best practices. On 11 October 2012, the Government established a Steering Committee on Review of the Regulation of Private Healthcare Facilities ("Steering Committee") to conduct a review on the regulatory regime for private healthcare facilities. According to the Administration, the review on the regulatory regime for private healthcare facilities is expected to be completed within a year. The Administration would then consult the public on the proposals put forward by the Steering Committee and proceed to the legislative process as and when necessary.

23. The Audit Commission has recently conducted a review of DH's regulatory control of private hospitals, in respect of its inspections of private hospitals, monitoring of sentinel events and complaints and price transparency in hospital charges; as well as a review of the direct land grants made for private hospital development. On 14 November 2012, Report No. 59 of the Director of Audit ("Audit Report") was tabled in the Legislative Council. The Public Accounts Committee of the Legislative Council has scheduled a number of public hearings in November and December 2012 to discuss the regulatory

control of private hospitals and the land grants for private hospital development as set out in Chapters 3 and 4 of the Audit Report respectively.

Relevant papers

24. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
14 December 2012

**Relevant papers on issues relating to
the development and operation of private hospitals**

Committee	Date of meeting	Paper
Panel on Health Services <i>- Mechanism for handling medical incidents in public and private hospitals</i>	9.11.2009 (Item IV)	Agenda Minutes CB(2)647/09-10(01)
Panel on Health Services <i>- Private hospital development</i>	14.12.2009 (Item IV)	Agenda Minutes
Panel on Health Services <i>- Mechanism for handling medical incidents in public and private hospitals</i>	14.6.2010 (Item IV)	Agenda Minutes CB(2)198/10-11(01)
Panel on Health Services <i>- Mechanism for handling medical incidents in private hospitals</i>	14.11.2011 (Item V)	Agenda Minutes
Panel on Health Services <i>- Monitoring of charging policy of private hospitals for obstetric services</i>	12.12.2011 (Item VI)	Agenda Minutes CB(2)1027/11-12(01)
Panel on Health Services <i>- The land disposal arrangement for the development of private hospitals at Wong Chuk Hang and Tai Po</i>	7.5.2012 (Item I)	Agenda Minutes