

## **LEGISLATIVE COUNCIL BRIEF**

### **ELECTRONIC HEALTH RECORD SHARING SYSTEM ORDINANCE (COMMENCEMENT) NOTICE 2015**

#### **INTRODUCTION**

This brief informs Members that the Electronic Health Record Sharing System Ordinance (Commencement) Notice 2015 (“Commencement Notice”), at Annex, has been published in the Gazette on 9 October 2015.

#### **BACKGROUND**

2. The Electronic Health Record Sharing System (“the System”) is a new infrastructure developed for Hong Kong’s healthcare system to enhance the quality and efficiency of service provided to the healthcare recipients. An electronic health record (“eHR”) is a record in electronic format containing health-related data or information of an individual. The System, upon commencement of operation, will provide an efficient platform for healthcare providers (“HCPs”) (e.g. hospitals and clinics) to upload and access individuals’ eHR for healthcare purposes, subject to the individual’s consent.

3. The Electronic Health Record Sharing System Ordinance (15 of 2015) (“the eHRSS Ordinance”), passed by the Legislative Council on 13 July 2015, aims to provide for the establishment of the System, sharing and using of data and information contained in the System, the protection of the System, and other incidental and connected matters. Section 1(2) of the eHRSS Ordinance provides that the Ordinance comes into operation on a day to be appointed by the Secretary for Food and Health (“SFH”) by notice published in the Gazette.

#### **THE COMMENCEMENT NOTICE**

4. Pursuant to section 1(2) of the eHRSS Ordinance, SFH has made the Commencement Notice to the effect that all provisions of the eHRSS Ordinance, except for those relating to the “sharing restriction request” (i.e. Section 3(3)(e), paragraphs (g) and (h) of the definition of *relevant time* in section 3(5), and Division 4 of Part 2) and “use of eHR for research and statistics” (i.e. Section 29, Division 2 and 3 of Part 3, sections 46 and 49(1)(g),

Division 2 of Part 6 and section 58(c)), will become effective on 2 December 2015. The commencement of operation of specific sections of the Ordinance would enable the Government to start the process of voluntary registration of participating healthcare providers and healthcare recipients, and later sharing of health records. As for the remaining uncommenced sections, the reasons for not bringing them into operation at the same time are set out below.

### ***“Sharing restriction request”***

5. During scrutiny of the Electronic Health Record Sharing System Bill (“the Bill”) by the Bills Committee on Electronic Health Record Sharing System Bill of the Legislative Council (“the Bills Committee”), Members discussed the idea of developing some “safe deposit box” like feature for separate storage of certain patient data with enhanced access control. We then explained to the Bills Committee diverse views had been received on the merits of “safe deposit box” in the earlier public consultation. As a result, it had not been included in the scope of Stage 1 development of the System, but would be further studied in Stage 2 eHR Programme. Nevertheless, in view of the concern expressed by the Privacy Commissioner for Personal Data and some members, we undertook to conduct the future study along a positive direction, with a view to developing and implementing some form of new device/arrangement enabling additional choice for patients over the disclosure of their data. The study will be conducted in the 1st year of Stage 2 eHR Programme. We have also added relevant provisions (i.e. “sharing restriction request” provisions) into the Bill to stipulate the spirit of fostering patient choice over data sharing. It was agreed at the Bills Committee that the new provisions should take effect only upon completion of the future study and after such feature was technically ready, instead of from Day 1 of the System operation.

### ***Use of eHR for Research and Statistics***

6. As provided under the eHRSS Ordinance, the data and information contained in an eHR of a registered healthcare recipient may be used for carrying out research, or preparing statistics, that are relevant to public health or public safety. The eHRSS Ordinance also provides for the procedures for such use of eHR i.e. applications will be subject to approval by SFH (on the recommendation of an Electronic Health Record Research Board) and the Commissioner for the Electronic Health Record (“eHRC”) for identifiable and non-identifiable data respectively. That said, as mentioned to the Bills Committee, we expect that it would take some time for the System to build up a critical mass of data meaningful for research and statistical purposes. After the appointment of the eHRC in accordance with the eHRSS Ordinance, the eHRC will formulate relevant operational guidelines in due course to prepare for processing future applications and approval of use of the eHR in the System for research and statistics. The relevant provisions relating to the use of eHR for research and statistics will afterwards be brought into operation.

## **LEGISLATIVE TIMETABLE**

7. The Commencement Notice was published in the Gazette on **9 October 2015** and will be tabled at the Legislative Council on **14 October 2015** for negative vetting.

## **ENQUIRY**

8. Any enquiry on this brief can be addressed to Ms Ida Lee, Deputy Head (eHR), at 3509 8912.

**Food and Health Bureau  
October 2015**

Electronic Health Record Sharing System Ordinance (Commencement)  
Notice 2015

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**Electronic Health Record Sharing System Ordinance  
(Commencement) Notice 2015**

Under section 1(2) of the Electronic Health Record Sharing System Ordinance (15 of 2015), I appoint 2 December 2015 as the day on which the Ordinance, other than the following provisions, comes into operation—

- (a) section 3(3)(e);
- (b) paragraphs (g) and (h) of the definition of *relevant time* in section 3(5);
- (c) Division 4 of Part 2;
- (d) section 29;
- (e) Divisions 2 and 3 of Part 3;
- (f) section 46;
- (g) section 49(1)(g);
- (h) Division 2 of Part 6;
- (i) section 58(c).

Dr. KO Wing-man  
Secretary for Food and Health

6 October 2015