

立法會
Legislative Council

LC Paper No. CB(2)1421/17-18

(These minutes have been
seen by the Administration)

Ref : CB2/BC/8/16

Bills Committee on Private Healthcare Facilities Bill

**Minutes of the second meeting
held on Monday, 9 October 2017, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

- Members present** :
- Hon CHAN Han-pan, JP (Chairman)
 - Hon Tommy CHEUNG Yu-yan, GBS, JP
 - Prof Hon Joseph LEE Kok-long, SBS, JP
 - Hon WONG Ting-kwong, GBS, JP
 - Hon Starry LEE Wai-king, SBS, JP
 - Hon CHAN Kin-por, GBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon YIU Si-wing, BBS
 - Hon CHAN Chi-chuen
 - Hon Alice MAK Mei-kuen, BBS, JP
 - Dr Hon KWOK Ka-ki
 - Dr Hon Fernando CHEUNG Chiu-hung
 - Dr Hon Helena WONG Pik-wan
 - Dr Hon CHIANG Lai-wan, JP
 - Hon HO Kai-ming
 - Hon SHIU Ka-fai
 - Hon SHIU Ka-chun
 - Dr Hon Pierre CHAN
- Members absent** :
- Hon Steven HO Chun-yin, BBS
 - Hon Andrew WAN Siu-kin
 - Dr Hon Junius HO Kwan-yiu, JP
- Public Officers attending** :
- Mr Chris SUN Yuk-han, JP
 - Head, Healthcare Planning and Development Office
 - Food and Health Bureau

Mr Bill LI Chi-pang
Deputy Head, Healthcare Planning and Development
Office
Food and Health Bureau

Mr Michael LI Chi-lung
Assistant Secretary for Food and Health (Health) 6
Food and Health Bureau

Dr Amy CHIU Pui-yin, JP
Head, Office for Regulation of Private Healthcare Facilities
Department of Health

Dr FUNG Ying
Principal Medical and Health Officer (Private Healthcare
Facilities) 2
Department of Health

Ms Rayne CHAI Chih-hui
Senior Assistant Law Draftsman
Department of Justice

Attendance : Hong Kong Beauty Management & Development
by invitation Association

Ms MA Ying-kam
President

Federation of Beauty Industry (HK)

Ms Frances CHIU Siu-ling
Chairman

Haven of Hope Sister Annie Skau Holistic Care Centre

Dr Antony LEUNG Chi-tat
Medical Superintendent

Hong Kong Academy of Medicine

Prof Gilberto LEUNG Ka-kit
Vice-President (Education and Examinations)

The Zubin Foundation

Ms Shalini Mahtani
Founder

The Specialists Surgery and Endoscopy Centre Limited

Dr Percy LAM Wing-fong
Specialist in General Surgery

The Hong Kong Nephrology Group

Dr HO Chung-ping
Chairman

Association of Doctors in Aesthetic Medicine (HK) Limited

Dr FUNG Ho-wang
Past Chairman

Liberal Party

Mr HO Wang
Member

The Hong Kong Medical Association

Dr David LAM Tzit-yuen
Honorary Secretary

Hong Kong Association of Medical Laboratories Limited

Mr LI Wai-chun
Chairman

Supplementary Medical Professions Council

Dr Homer TSO Wei-kwok
Chairman

Project Steering Committee on Standards for
Ambulatory Facilities

Prof Raymond LIANG Hin-suen
Chairman

Hong Kong Doctors Union

Dr Henry YEUNG Chiu-fat
President

Democratic Party

Mr YUEN Hoi-man
Deputy Spokesperson on Health Affairs

Hong Kong Beauty Press Limited

Mr IP Sai-hung
Editor in Chief

Mrs Teresa TSOI

Hong Kong Professionals And Senior Executives
Association

Dr Irene LAU
Executive Committee Member/Member of
Sub-committee on Medical and Health

Hong Kong Private Hospitals Association

Dr Anthony LEE Kai-yiu
Chairman

Association of Private Medical Specialists of Hong Kong

Dr Veronica WAI
Representative

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr YIP Man-pan
Deputy Spokesperson of Policy

Faculty of Medicine, The Chinese University of Hong Kong

Prof Justin WU
Associate Dean (Development)

The University of Hong Kong

Mr Dennis FULLGRABE
Senior Manager, HKU Health System

Knowledge Transfer and Consultancy Limited

Prof Thomas WONG Kwok-shing
President

Mr CHAN Wai-kit

Patients' Alliance on Healthcare Reform

Mr Oliver WOO
Representative

Society for Community Organization

Mr Tim PANG
Community Organizer

The Society for the Promotion of Hospice Care

Mr Raymond WONG Siu-keung
Chairman, Executive Committee

Consumer Council

Ms Vera TAM
Chief Planning and Trade Practices Officer

The Federation of Medical Societies of Hong Kong

Dr Jane CHAN Chun-kwong
Vice President

Hong Kong Dental Association

Dr Haston LIU Wai-ming
President

Prof Joanne CHUNG Wai-yee

International CICA Association of Esthetics

Ms LUK Wai-fong
President

The Dental Council of Hong Kong

Dr LEE Kin-man
Chairman

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Miss Kay CHU
Senior Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

- I. Meeting with deputations and the Administration**
[File Ref: FH CR 3/3231/16, LC Paper Nos. LS82/16-17, CB(2)1823/16-17(02) to (03), CB(2)2140/16-17(01) to (02) and CB(3)687/16-17]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee received oral representation from 34 deputations on the Private Healthcare Facilities Bill ("the Bill"), and noted six written submissions from organizations not attending the meeting.

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3. The Bills Committee requested the Administration to:
- (a) in respect of the Administration's response that subject to

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members' views, it would consider excluding those healthcare facilities managed or controlled by the Faculties of Medicine of The University of Hong Kong and The Chinese University of Hong Kong for teaching or research purposes from the application of the Bill, advise the proposed criteria for exclusion and the existing healthcare facilities that would meet these proposed criteria;

- (b) advise under what circumstances a beauty service provider would be regarded as having contravened clause 12(1) if its beauty practitioner performed, on a premises other than the excepted premises specified under clause 12(3), an invasive cosmetic procedure, such as eyebrow tattooing, removal of moles, treatment using laser or intense pulsed light, for a customer for beauty purposes;
- (c) in respect of the Committee on Complaints against Private Healthcare Facilities ("the Complaints Committee") referred to under clause 71,
 - (i) provide a response to the suggestion that membership of the Complaints Committee should comprise representatives from the healthcare profession, representatives from other professions, and other lay members in equal proportion. According to clause 71(2)(c), the Complaints Committee would have, other than a chairperson and a deputy chairperson, not less than 24, and not more than 48, members; and
 - (ii) advise whether an appeal mechanism would be put in place such that complainants who were aggrieved by the decisions of the Complaints Committee could appeal for a review of the decisions;
- (d) advise whether new private hospitals to be established and operated by non-governmental organizations for the provision of palliative hospice services could be exempted from paying the application fee for a license for a hospital. According to the proposed Schedule 3, the application fees for a license for a hospital with up to 200 beds (item 1 referred) and for renewal of license for a hospital (item 12 referred), the validity period of which would be not more than two years, amounted to \$426,000 and \$5,020 respectively; and

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- (e) provide a consolidated response to the deputations' views and suggestions to, in particular those relating to the legal and drafting aspects of, the Bill.

II. Any other business

4. Members agreed that the next meeting of the Bills Committee would be held on 7 November 2017 at 4:30 pm.

5. There being no other business, the meeting ended at 11:59 am.

Council Business Division 2
Legislative Council Secretariat
17 May 2018

**Proceedings of the second meeting of
the Bills Committee on Private Healthcare Facilities Bill
held on Monday, 9 October 2017, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with deputations and the Administration</i>			
001013 - 001423	Chairman	Opening remarks	
001424 - 001728	Project Steering Committee on Standards for Ambulatory Facilities	Presentation of views	
001729 - 002038	Hong Kong Doctors Union	Presentation of views (LC Paper No. CB(2)2140/16-17(09))	
002039 - 002211	Hong Kong Beauty Management & Development Association	Presentation of views	
002212 - 002533	Federation of Beauty Industry (HK)	Presentation of views (LC Paper No. CB(2)2185/16-17(01))	
002534 - 002819	Haven of Hope Sister Annie Skau Holistic Care Centre	Presentation of views (LC Paper No. CB(2)2140/16-17(03))	
002820 - 003112	Hong Kong Academy of Medicine	Presentation of views	
003113 - 003523	The Zubin Foundation	Presentation of views (LC Paper No. CB(2)2140/16-17(04))	
003524 - 003828	The Specialists Surgery and Endoscopy Centre Limited	Presentation of views (LC Paper No. CB(2)2140/16-17(05))	
003829 - 004120	The Hong Kong Nephrology Group	Presentation of views (LC Paper No. CB(2)2140/16-17(06))	
004121 - 004230	Association of Doctors in Aesthetic Medicine (HK) Limited	Presentation of views (LC Paper No. CB(2)2140/16-17(07))	
004231 - 004548	Liberal Party	Presentation of views	
004549 - 004901	The Hong Kong Medical Association	Presentation of views (LC Paper No. CB(2)2140/16-17(08))	
004902 - 005128	Hong Kong Association of Medical Laboratories Limited	Presentation of views (LC Paper No. CB(2)2185/16-17(02))	

Time marker	Speaker	Subject(s)/Discussion	Action required
005129 - 005332	Supplementary Medical Professions Council	Presentation of views	
005333 - 005641	Democratic Party	Presentation of views (LC Paper No. CB(2)2185/16-17(03))	
005642 - 005950	Hong Kong Beauty Press Limited	Presentation of views	
005951 - 010254	Mrs Teresa TSOI	Presentation of views	
010255 - 010538	Hong Kong Professionals And Senior Executives Association	Presentation of views (LC Paper No. CB(2)2158/16-17(01))	
010539 - 010900	Hong Kong Private Hospitals Association	Presentation of views (LC Paper No. CB(2)2140/16-17(10))	
010901 - 011211	Association of Private Medical Specialists of Hong Kong	Presentation of views (LC Paper No. CB(2)2140/16-17(11))	
011212 - 011420	Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views	
011421 - 011601	Faculty of Medicine, The Chinese University of Hong Kong	Presentation of views	
011602 - 011737	The University of Hong Kong	Presentation of views	
011738 - 011914	Knowledge Transfer and Consultancy Limited	Presentation of views	
011915 - 012215	Mr CHAN Wai-kit	Presentation of views (LC Paper No. CB(2)2140/16-17(12))	
012216 - 012441	Patients' Alliance on Healthcare Reform	Presentation of views	
012442 - 012816	Society for Community Organization	Presentation of views (LC Paper No. CB(2)2185/16-17(04))	
012817 - 013059	The Society for the Promotion of Hospice Care	Presentation of views (LC Paper No. CB(2)2140/16-17(13))	
013100 - 013423	Consumer Council	Presentation of views (LC Paper No. CB(2)2158/16-17(02))	
013424 - 013552	The Federation of Medical Societies of Hong Kong	Presentation of views	

Time marker	Speaker	Subject(s)/Discussion	Action required
013553 - 013645	Hong Kong Dental Association	Presentation of views (LC Paper No. CB(2)2140/16-17(14))	
013646 - 013927	Prof Joanne CHUNG Wai-yee	Presentation of views	
013928 - 014113	International CICA Association of Esthetics	Presentation of views	
014114 - 014324	The Dental Council of Hong Kong	Presentation of views (LC Paper No. CB(2)2185/16-17(05))	
014325 - 015117	Chairman Admin	<p>The Administration's response as follows:</p> <ul style="list-style-type: none"> (a) it has engaged the public and stakeholders at various stages of formulating the revamped regulatory regime for private healthcare facilities ("PHFs"). Details of the consultation work are set out in paragraph 28 of the Legislative Council Brief on the Bill (File Ref.: FH CR 3/3231/16); (b) under the principle of professional autonomy, the Project Steering Committee on Standards for Ambulatory Facilities set up by the Department of Health ("DH") and the Hong Kong Academy of Medicine in mid-2015 would continue to engage the relevant professions in drawing up standards for day procedure centres and to give advice on the standards for clinics to help protect patient safety and rights; (c) it would continue to listen to views from members on what should constitute "small practice clinic" for which an exemption from the licensing scheme might be granted by the Director of Health ("the Director") under Part 4 of the Bill; (d) it was open-minded to the suggestion of excluding from the application of the Bill day procedure centres, clinics and health services establishments managed or controlled by The University of Hong Kong ("HKU") and The Chinese University of Hong Kong ("CUHK") which were primarily used for teaching or research relating to medicine or dentistry; (e) the Bill aimed at regulating premises providing medical services by a registered medical practitioner or a registered dentist, as the case might be. The regulation of medical devices would be covered under a separate legislative exercise; and (f) the Administration would continue to discuss with operators of those existing scheduled nursing homes which aspired to become a private hospital in due course providing palliative hospice services on their concerns regarding applications for a hospital licence under the new regulatory regime. 	
015118 - 015844	Chairman Dr Helena WONG Admin	In reply to Dr Helena WONG's enquiry about the arrangements for the scheduled nursing homes after the passage of the Bill, the Administration advised that the Bill provided for transitional	

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		<p>arrangements in respect of scheduled nursing homes, and scheduled nursing homes might choose to apply for licences under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459). For those scheduled nursing homes which aspired to become a private hospital providing palliative hospice services in due course, an application for a hospital licence, which had to be, among others, accompanied by the appropriate fee specified in Schedule 3 to the Bill, had to be made. To the Administration's understanding, concerns of these scheduled nursing homes included the requirement that there would be at least one registered medical practitioner resident in the hospital at all times, and the arrangement for those terminally ill patients who had decided not to receive any life-sustaining treatment.</p> <p>In reply to Dr Helena's WONG's question about whether those beauty centres employing registered medical practitioner(s) or registered dentist(s) to provide medical beauty services would be subject to the licensing requirements under the regulatory regime for PHFs, the Administration advised that such premises would fall within the meaning of "day procedure centre" or "clinic" under the Bill and had to be operated with a day procedure centre licence or a clinic licence, as the case might be.</p>	
015845 - 020606	Chairman Dr CHIANG Lai-wan Admin Dr KWOK Ka-ki	<p>The Administration was requested to advise in writing as to whether new private hospitals to be established and operated by non-governmental organizations ("NGOs") for the provision of palliative hospice services could be exempted from paying the application fee for a licence for a hospital.</p> <p>Dr CHIANG Lai-wan's view that PHFs should be required to take out a liability insurance for its chief medical executive who was responsible to take charge of the day to day administration of the facility, so as to ensure that patients would be provided with adequate compensation in case of a medical or dental incident.</p> <p>In reply to Dr CHIANG Lai-wan's view that DH should set up a steering committee on regulation of beauty industry to facilitate the industry in formulating a regulatory regime which covered, among others, the use of devices, the Administration reiterated that the regulation of medical devices would be covered under a separate legislative exercise. Dr KWOK Ka-ki urged the Administration not to drag its feet in formulating a regulatory regime for the use of cosmetic-related medical devices.</p>	Admin
020627 - 021337	Chairman Dr KWOK Ka-ki Admin	<p>On Dr KWOK Ka-ki's concern that some medical groups might abuse the exemption of small practice clinics provided under the Bill to evade from the licensing requirements for clinics, the Administration advised that the proposed exemption would only be applicable to those clinics which involved only solo or small group practice. For the latter, the clinics had to be operated by not more than five registered medical practitioners or registered dentists, who were all – and also the only ones – responsible for the management of the clinic as well as practising in the clinic.</p> <p>Dr KWOK Ka-ki's view that in view of the inadequacy of public palliative hospice services, non-profit-making PHFs established</p>	

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		and operated by NGOs for the provision of palliative hospice services should be subject to a set of licensing requirements distinct from that for private hospitals. The fee payable in relation to applications for licences for such PHFs should also be less than that for the issue of a licence for a hospital.	
021338 - 022339	Chairman Mr SHIU Ka-fai Federation of Beauty Industry (HK) Hong Kong Beauty Press Limited Admin	<p>At the invitation of Mr SHIU Ka-fai, representative from the Federation of Beauty Industry (HK) elaborated the Federation's concerns over clauses 12, 66, 67 and 94 as set out in its submission; and representative from the Hong Kong Beauty Press Limited expressed concern that certain cosmetic procedures were being regarded as medical procedures and beauty parlors providing such cosmetic services would be subject to regulation under the new regulatory regime for PHFs.</p> <p>The Administration's advice that sub-clauses (a) and (b) under clause 12(1) of the Bill had to be read together. There were provisions of similar nature in the Medical Clinics Ordinance (Cap. 343) and the Medical Registration Ordinance (Cap. 161). Separately, the Working Group on Differentiation between Medical Procedures and Beauty Services ("the Working Group") set up under the Steering Committee on Review of Regulation of PHFs had identified the procedures that should be performed only by registered medical practitioners or registered dentists because of their inherent risks.</p>	
022340 - 022810	Chairman Mr SHIU Ka-chun Admin	<p>Mr SHIU Ka-chun's enquiry about whether nursing services provided by nurses in nurse clinics and care services provided by social workers in centres for elders with mental illness would be regarded as medical service under the Bill.</p> <p>The Administration's clarification that the Bill had provided for meaning of a PHF which was a hospital, day procedure centre, clinic or health services establishment, as well as meanings of these four types of PHF. In gist, only those premises that provided medical services or medical procedures which should only be performed by or on the direction of a registered medical practitioner or a registered dentist, as the case might be, would be subject to regulation. Clause 92 of the Bill prohibited the use of titles or descriptions fulfilling the criteria set out in that clause except with the prior approval in writing of the Director, or except as provided or permitted by any other law.</p>	
022811 - 023515	Chairman Dr Pierre CHAN Admin	<p>Dr Pierre CHAN's remark that some of those deputations that were supportive of the Bill were however of the view that their facilities should be exempted from regulation.</p> <p>In reply to Dr Pierre CHAN's question, the Administration elaborated on the interpretation of premises in relation to PHF as provided for under clause 8 of the Bill. Under the existing regulatory regime, a hospital and its satellite clinics might be regulated under the same hospital licence. Under the proposed regime, separate licences would be required for day procedure centres or clinics which were not physically attached or in close proximity to, or adjoining the hospital. In cases where a PHF other than a hospital, for example a clinic, was operated in more</p>	

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		<p>than one units in a building, the premises might be covered by a single licence if the units formed a distinct whole for the facility to function as a single entity.</p> <p>In reply to Dr Pierre CHAN's question as to whether those beauty service providers which referred the medical procedures performed by them as cosmetic procedures would be caught by clause 12, the Administration advised that:</p> <p>(a) clause 12 of the Bill made it an offence for a person who was not a healthcare professional to (i) purportedly perform, on premises other than certain excepted premises, a medical treatment or medical procedure for another person who was, or might be, suffering from a disease, injury or disability of mind or body; and (ii) cause personal injury to the other person during the treatment or procedure; and</p> <p>(b) the Medical Registration Ordinance (Cap. 161) and the Dentists Registration Ordinance (Cap. 156) had respectively made it an offence for a person who practised or published his name as practising medicine or surgery without registration; and for a person, not being a registered dentist, practised dentistry within Hong Kong.</p>	
023516 - 024016	Chairman Ms Alice MAK Admin	<p>On Ms Alice MAK's question about whether the meaning of "premises" in relation to PHF covered mobile medical or dental clinics, the Administration replied in the affirmative.</p> <p>Ms Alice MAK's concern about the restriction under clause 84(2) of the Bill that the Committee on Complaints against Private Healthcare Facilities ("the Complaints Committee") might refuse to appoint a case panel to consider a facility complaint if the event to which the complaint related occurred more than two years before the day on which the complaint was made; and her view that it was necessary to ensure that the proposal of exempting operators of small practice clinics from the licensing scheme would not result in the non-medical investors of medical groups becoming able to absolve from responsibility in case of medical incidents.</p> <p>In response to Ms Alice MAK's request, the Administration undertook to meet with the stakeholders of the beauty industry to discuss their concerns on the Bill in due course.</p>	
024017 - 024358	Chairman Admin	<p>The Chairman's request for the Administration to provide a written response to a deputation's suggestion that membership of the Complaints Committee should comprise representatives from the healthcare profession, representatives from other professions, and other lay members in equal proportion. The Chairman also suggested that an informal meeting among representatives of the beauty industry, the Administration and himself be held to better understand the industry's concerns on the Bill.</p>	Admin
024359 - 024911	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai's request for the Administration to advise in writing as to under what circumstances a beauty service provider would be regarded as having contravened clause 12(1) if its</p>	Admin

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		beauty practitioner performed, on a premises other than the excepted premises specified under clause 12(3), an invasive cosmetic procedure, such as eyebrow tattooing, removal of moles, treatment using laser or intense pulsed light, for a customer for beauty purposes.	
024912 - 025752	Chairman Dr Pierre CHAN Admin Hong Kong Dental Association	Referring to the Administration's advice that its inclination was to accept the suggestion that day procedure centres, clinics and health services establishments managed or controlled by HKU and CUHK primarily used for teaching or research relating to medicine or dentistry should be excluded from the new regulatory regime for PHFs, Dr Pierre CHAN requested the Administration to advise the proposed criteria for the said exclusion and the existing facilities that would meet these proposed criteria. At the invitation of Dr Pierre CHAN, representative of the Hong Kong Dental Association expressed concern about whether the current voluntary services provided by some registered dentists and anaesthetists whereby dental care was provided for persons with intellectual disabilities under monitored anaesthesia care in a temporary setting would be regarded as a medical procedure that needed to be performed in a PHF under regulation. In response, the Administration replied in the affirmative.	Admin
025753 - 030238	Chairman Ms Alice MAK Society for Community Organization Admin	Ms Alice MAK's remark that traditional body tattooing, including eyebrow tattooing, was exempted from being regarded as a medical procedure as recommended by the Working Group; and her reiteration of the request for the Administration to meet with representatives from the beauty industry to understand their concerns on the Bill. Ms Alice MAK requested the Administration to provide a response to the suggestion of the Society for Community Organization that an appeal mechanism should be put in place such that complainants who were aggrieved by the decisions of the Complaints Committee could appeal for a review of the decisions; and the Society's further view that the relevant codes of practice to be issued by the Director under clause 102 should specify a performance pledge for the handling of a facility complaint by a PHF.	Admin
030239 - 030306	Chairman Admin	The Chairman's request for the Administration to provide a consolidated response to deputations' views and suggestions to, in particular those relating to the legal and drafting aspects of, the Bill.	Admin
<i>Agenda item II: Any other business</i>			
030307 - 030322	Chairman	Date of next meeting	