

立法會
Legislative Council

LC Paper No. CB(2)1422/17-18

(These minutes have been
seen by the Administration)

Ref : CB2/BC/8/16

Bills Committee on Private Healthcare Facilities Bill

**Minutes of the third meeting
held on Tuesday, 7 November 2017, at 4:30 pm
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 CHAN Kin-por, GBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon Steven HO Chun-yin, BBS
 - 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 Elizabeth QUAT, BBS, JP
 - Dr Hon CHIANG Lai-wan, JP
 - Hon Andrew WAN Siu-kin
 - Dr Hon Junius HO Kwan-yiu, JP
 - Hon SHIU Ka-fai
 - Hon SHIU Ka-chun
 - Dr Hon Pierre CHAN
- Members absent** :
- Hon Starry LEE Wai-king, SBS, JP
 - Hon HO Kai-ming
- Public Officers attending** :
- Mr FONG Ngai
 - 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

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

Miss Elaine NG Pui-kei
Senior Government Counsel
Department of Justice

**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. Application for late membership
[LC Paper No. CB(2)189/17-18(01)]

The Chairman referred to the application from Dr Elizabeth QUAT for late membership of the Bills Committee. The Bills Committee agreed that the application from Dr Elizabeth QUAT be accepted.

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II. Meeting with 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), CB(2)196/17-18(01) to (02) and CB(3)687/16-17]

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

Admin

3. The Bills Committee requested the Administration to:

- (a) in respect of its proposal to exclude from the Private Healthcare Facilities Bill ("the Bill") any facility which was managed or controlled by The University of Hong Kong ("HKU") or The Chinese University of Hong Kong ("CUHK"); a day procedure centre, clinic or health services establishment; and primarily used for teaching or research relating to medicine or dentistry,
 - (i) advise whether and, if so, the reason(s) why the Administration held the same view as the representatives from the Faculties of Medicine of HKU and CUHK who attended the meeting of the Bills Committee on 9 October 2017 that subjecting the facilities managed or controlled by the Faculties under the Bill would stifle teaching and research activities;
 - (ii) provide details of the existing governance mechanism of HKU and CUHK for the day procedure centres, clinics or health services establishments under their aegis, including information on how medical incidents of and complaints against these facilities would be handled, and explain the reason(s) why the putting in place of such mechanism could justify the above proposal;
 - (iii) advise whether and, if so, how the activities of the facilities concerned, including, among others, those 14 existing facilities ("the 14 facilities") set out in the Annex to LC Paper No. CB(2)196/17-18(02), would be quantified to assess their meeting of the requirement of "primarily used for teaching or research relating to medicine or dentistry"; and

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- (iv) consult the stakeholders, such as patient organizations and service users of the 14 facilities, on the proposal and revert in writing the views so gauged;
- (b) in respect of the requirement under clause 42(2) that persons operating, or intending to operate, a small practice clinic had to make, if they so wished, the requests for a letter of exemption for the clinic concerned in the form and way specified by the Director of Health ("the Director"), provide the working draft of the request form for reference of the Bills Committee when available;
- (c) in respect of its position that having made reference to the arrangement under the complaints management system in the Hospital Authority ("HA"), it was considered appropriate that the Committee on Complaints against Private Healthcare Facilities might, under clause 84(2)(b), 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, advise HA's rationale for imposing a two-year time limit for filing a complaint;
- (d) explain the reason(s) why while cosmetic tattooing (e.g. eyebrow tattooing) was exempted from being regarded as medical procedure and hence, could be performed by beauty practitioners at beauty parlours without their being regarded as day procedure centres or clinics under the Bill, the sale, possession and administration of local anaesthetic were subject to various restrictions under the legislation (e.g. the Pharmacy and Poisons Ordinance (Cap. 138)), which in some members' view had hindered beauty parlours from providing such services;
- (e) provide a response to the view of some members that, having regard to the fact that the carrying out of those cosmetic procedures that had to be performed by registered medical practitioners (e.g. injections of Botox) only accounted for a small proportion of the services (e.g. a few hours per week) provided by some beauty parlours which would be regarded as day procedure centres or clinics under the Bill, a registered medical practitioner should be allowed to serve at the same time as the chief medical executive of more than two (say, up to 10) day procedure centres or clinics which were operated by different licensees. Under clause 53(4), a person appointed

Action

under clause 49(1) could not serve at the same time as the chief medical executive of more than two day procedure centres or clinics;

- (f) advise whether a permitted facility (i.e. a private healthcare facility for which a licence was in force or an exemption under clause 43 was in force) would be regarded as having met the requirement of having a direct and separate entrance under clause 67 if the facility concerned was located in a room or unit of a premises with two or more rooms or units, each having a separate entrance with clear signage and involved the provision of unrelated services (e.g. medical services vis-à-vis beauty services); and
- (g) provide, when available, for reference of the Bills Committee a copy each of the working draft of the codes of practice to be issued by the Director under clause 102 for compliance with by day procedure centres and clinics in respect of the regulatory standards of the facilities concerned.

III. Any other business

4. Members agreed that the next meeting of the Bills Committee would be held on 12 December 2017 at 4:30 pm.

5. There being no other business, the meeting ended at 6:12 pm.

Council Business Division 2
Legislative Council Secretariat
17 May 2018

**Proceedings of the third meeting of
the Bills Committee on Private Healthcare Facilities Bill
held on Tuesday, 7 November 2017, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Application for late membership</i>			
000808 - 000903	Chairman	Dr Elizabeth QUAT's application for late membership	
<i>Agenda item II: Meeting with the Administration</i>			
000904 - 001010	Chairman	Opening remarks	
001011 - 002231	Chairman Admin	Briefing by the Administration on its responses to the follow-up actions arising from the discussion at the meetings of the Bills Committee on 11 July and 9 October 2017 [LC Paper Nos. CB(2)2140/16-17(02) and CB(2)196/17-18(02)]; and its informal meeting with some representatives of the beauty industry and some members of the Bills Committee to understand their concerns on the Private Healthcare Facilities Bill ("the Bill").	
002232 - 002807	Chairman Mr CHAN Kin-por Admin	<p>Mr CHAN Kin-por's remark that while The Hong Kong Federation of Insurers supported strengthening the regulation of private healthcare facilities ("PHFs"), it called for the further development of the Electronic Health Record Sharing System to facilitate sharing of participating patients' health data by healthcare providers in the public and private sectors; and enhancement of price transparency of private hospitals by requiring them to provide budget estimates for patients, introduce packaged charges for more operations or procedures and publicize historical cost statistics for common treatments or procedures.</p> <p>The Administration's advice that a voluntary pilot programme, ("the pilot programme") with the participation of all private hospitals, had been rolled out in 2016 to try out the measures of providing budget estimates for specified common and non-emergency operations and procedures, and publicizing on the hospitals' websites the fee schedule of the major chargeable items and the historical bill sizes of specified common operations or procedures. As of the second quarter of 2017, about 60% of the cases undergoing the specified common and non-emergency operations or procedures at private hospitals were provided with budget estimates. Measures to enhance PHFs' price transparency were also stipulated in the Bill.</p>	
002808 - 003925	Chairman Dr Pierre CHAN Admin Dr KWOK Ka-ki	Dr Pierre CHAN and Dr KWOK Ka-ki were concerned about the Administration's proposal to exclude from the Bill any facility which was managed or controlled by The University of Hong Kong ("HKU") or The Chinese University of Hong Kong ("CUHK"); a day procedure centre, clinic or health services establishment; and primarily used for teaching or research relating to medicine or dentistry ("the exclusion proposal"). To their understanding, some services provided by some of the 14 existing facilities which the Administration considered meeting the proposed criteria for exclusion as set out in the Annex to LC	

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		<p>Paper No. CB(2)196/17-18(02) ("the 14 facilities") required payment by patients. Dr KWOK Ka-ki's view that the exclusion proposal would undermine patients' interest, which should be of the prime concern in formulating the new regulatory regime.</p> <p>The Administration was requested to:</p> <ul style="list-style-type: none"> (a) advise whether and, if so, how the activities of the facilities concerned, including, among others, the 14 facilities, would be quantified to assess their meeting of the requirement of "primarily used for teaching or research relating to medicine or dentistry"; (b) provide details of the existing governance mechanism of HKU and CUHK for the day procedure centres, clinics or health services establishments under their aegis, and explain the reason(s) why the putting in place of such mechanism could justify the above Administration's proposal; and (c) consult the stakeholders, such as patient organizations and service users of the 14 facilities, on the proposal and revert to the Bills Committee in writing the views so gauged. 	Admin
003926 - 004613	Chairman Mr SHIU Ka-fai Admin	<p>Expressing concern over the possible negative impact of the implementation of the new regulatory regime on the beauty industry, Mr SHIU Ka-fai requested the Administration to:</p> <ul style="list-style-type: none"> (a) having regard to the fact that the carrying out of those cosmetic procedures that had to be performed by registered medical practitioners (e.g. injections of Botox) only accounted for a small proportion of the services (e.g. a few hours per week) provided by some beauty parlours which would be regarded as day procedure centres or clinics under the Bill, consider allowing a registered medical practitioner to serve at the same time as the chief medical executive of more than two (say, up to 10) day procedure centres or clinics which were operated by different licensees; (b) explain the reason(s) why while cosmetic tattooing (e.g. eyebrow tattooing) was exempted from being regarded as medical procedure and hence, could be performed by beauty practitioners at beauty parlours without their being regarded as day procedure centres or clinics under the Bill, the sale, possession and administration of local anaesthetic were subject to various restrictions under the legislation (e.g. the Pharmacy and Poisons Ordinance (Cap. 138)); and (c) consider the feasibility of the requirement that operators of a permitted facility (i.e. a PHF for which a licence was in force or an exemption under clause 43 was in force) had to ensure that the premises had a direct and separate entrance not shared with or involving passing through, any premises that served a purpose not reasonably incidental to the facility. 	

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004614 - 005010	Chairman Mr CHAN Chi-chuen Admin	At the request of Mr CHAN Chi-chuen, the Administration agreed to: (a) provide in writing details of the existing governance mechanism of HKU and CUHK for the day procedure centres, clinics or health services establishments under their aegis, including information on how medical incidents of and complaints against these facilities would be handled; and (b) advise in writing whether and, if so, the reason(s) why the Administration held the same view as the representatives from the Faculties of Medicine of HKU and CUHK who attended the meeting of the Bills Committee on 9 October 2017 that subjecting the facilities managed or controlled by the Faculties under the Bill would stifle teaching and research activities. Mr CHAN Chi-chuen's concern over the proposed restriction that the Committee on Complaints against Private Healthcare Facilities 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, which, according to the Administration, was modeled on the arrangement of the complaints management system of the Hospital Authority ("HA"). At his request, the Administration undertook to advise in writing HA's rationale for imposing the two-year time limit for filing a complaint.	Admin Admin
005011 - 010033	Chairman Dr Elizabeth QUAT Admin Prof Joseph LEE	In response to Prof Joseph LEE, the Administration advised that the exclusion proposal only covered those day procedure centres, clinics and health services establishments, but not hospitals, managed or controlled by HKU or CHUK which were primarily used for teaching or research relating to medicine or dentistry. Dr Elizabeth QUAT remained concerned about the justifications for the exclusion proposal. Dr Elizabeth QUAT's discontent that the new regulatory regime had not taken the operation of beauty service providers into account, and her request for the Administration to address the concerns raised earlier by Mr SHIU Ka-fai in this regard, in particular those relating to the administration of local anaesthetics, before the commencement of clause-by-clause examination of the Bill. In response to Prof Joseph LEE's enquiry as to whether a beauty centre had to be operated with a licence if a registered medical practitioner would only provide medical services in the premises as and when required, the Administration advised that premises in which a registered medical practitioner or a registered dentist provided medical services regardless of the duration had to be operated with a day procedure centre licence or a clinic licence, as the case might be.	Admin
010034 - 010450	Chairman Mr CHAN Kin-por Admin	Mr CHAN Kin-por's views that members of the public should be able to find out without difficulty, not just before admission, the charges of private hospitals for common and non-emergency operations or treatments; and his concern that some private hospitals were reluctant to provide budget estimates under the	

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		<p>pilot programme. He called on the Administration to set out clearly the items that had to be published by private hospitals to enhance price transparency.</p> <p>The Administration's advice that under the pilot programme, the Department of Health had recommended a list of 30 common and non-emergency operations or procedures for the provision of budget estimates. For the estimates of hospital charges, probably it would be the attending doctors to provide the estimate based on the information provided by the private hospital concerned. Upon passage of the Bill, the licensee of a private hospital had to put in place a budget estimate system to provide estimates of the fees and charges of the hospital for the treatments and procedures specified by the Director of Health ("the Director"), and to ensure that each patient would be provided with a budget estimate form providing an estimate of the fees and charges for the treatments or procedures intended to be undertaken by the patient. The Administration would continue to communicate with the relevant stakeholders, including the insurance sector, in this regard.</p>	
010451 - 011400	Chairman Dr Fernando CHEUNG Admin Dr Pierre CHAN	<p>Referring to the exclusion proposal, Dr Fernando CHEUNG was concerned that in some cases, a PHF managed or controlled by HKU or CUHK which was used for teaching or research relating to medicine or dentistry might at the same time providing medical services to members of the public.</p> <p>In response to Dr Pierre CHAN's enquiry as to whether those facilities managed and controlled by HKU or CHUK which were used for providing health care for the universities' students and staff would be covered under the exclusion proposal, the Administration replied in the negative.</p> <p>On Dr Pierre CHAN's question about whether operators of small practice clinics for which exemptions under clause 43 were in force had to display the letter of exemption issued by the Director in the clinics, the Administration's advice that under clause 107, the Director had to establish and maintain, among others, a register of all small practice clinics for which exemptions were in force and make the register available for public inspection.</p>	
011401 - 013041	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai's reiteration of his concerns over the impact of the Bill on the development of the beauty industry.</p> <p>The Administration agreed to provide a written response in respect of Mr SHIU Ka-fai and the Chairman's enquiry as to whether a permitted facility would be regarded as having met the requirement of having a direct and separate entrance under the Bill if the facility concerned was located in a room or unit of a premises with two or more rooms or units, each having a separate entrance with clear signage and involved the provision of unrelated services (e.g. medical services vis-à-vis beauty services).</p> <p>The Administration's undertaking to provide, when available, for reference of the Bills Committee a copy each of the working</p>	Admin

Time marker	Speaker	Subject(s)/Discussion	Action required
		draft of the codes of practice to be issued by the Director under clause 102 for compliance with by day procedure centres and clinics in respect of the regulatory standards of the facilities concerned.	
013042 - 014542	Chairman Dr Pierre CHAN Admin	<p>In reply to Dr Pierre CHAN's enquiry about the rationale for the proposed exemption for small practice clinics, the Administration explained that unlike the case of those clinics operated under the management of a third party whereby the registered medical practitioners or registered dentists practising there would not have full control of the clinics in ensuring their effective governance, the requirement that the registered medical practitioners or registered dentists who operated the small practice clinics had to be the only registered medical practitioners or registered dentists who served the clinics could ensure that they were the only ones responsible for the management of the clinics as well as practising in the clinics.</p> <p>In response to Dr Pierre CHAN's further question about whether a clinic which was operated by a company having only one director, who was a registered medical practitioner or a registered dentist and was the only one who served the clinic, could request for exemption under the Bill, the Administration replied in the affirmative. At the request of Dr Pierre CHAN, the Administration undertook to provide the working draft of the request form for a letter of exemption for reference of the Bills Committee when available.</p> <p>On Dr Pierre CHAN's concern that upon passage of the Bill, those operators of small practice clinics who were not aware of the implementation of the new regulatory regime and the need for requesting for a letter of exemption for the clinic might inadvertently breach the law, the Administration advised that it would endeavour to step up publicity to get stakeholders fully informed and prepared before implementing the regulatory regime which would commence in phases. Part 9 of the Bill had also provided for the transitional arrangements. When the Administration considered that both the public and stakeholders were ready for full-scale regulation in respect of the type of PHFs concerned, the relevant prohibition and offence provisions would come into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette, which would be subject to negative vetting by the Legislative Council.</p>	Admin
<i>Agenda item III: Any other business</i>			
014543 - 014645	Chairman	<p>Closing remarks</p> <p>Date of next meeting</p>	