

**立法會**  
**Legislative Council**

LC Paper No. CB(2)249/18-19  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/8/16

**Bills Committee on Private Healthcare Facilities Bill**

**Minutes of the fourth meeting  
held on Tuesday, 12 December 2017, at 4:30 pm  
in Conference Room 2 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 Steven HO Chun-yin, BBS  
Hon YIU Si-wing, BBS  
Hon CHAN Chi-chuen  
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  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Dr Hon Pierre CHAN

**Members absent :** Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon HO Kai-ming

**Public Officers attending :** The Administration  
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

Mr Lot CHAN Sze-tao  
Chief Pharmacist (1)  
Department of Health

Dr Ada LIN Wai-chi  
Acting 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

Representatives from universities

Mr Dennis FULLGRABE  
Senior Manager  
HKU Health System  
Li Ka Shing Faculty of Medicine  
The University of Hong Kong

Prof Cynthia YIU Kar-yung  
Associate Dean (Taught Postgraduate Education)  
Faculty of Dentistry  
The University of Hong Kong

Prof Justin WU Che-yuen  
Associate Dean (Development)  
Faculty of Medicine  
The Chinese University of Hong Kong

**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

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**I. Meeting with the Administration**

[File Ref: FH CR 3/3231/16, LC Paper Nos. CB(3)687/16-17, LS82/16-17, CB(2)1823/16-17(02) to (03) and CB(2)454/17-18(01) to (03)]

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

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2. The Bills Committee requested the Administration to:

- (a) in respect of its proposal to exclude from the Private Healthcare Facilities Bill ("the Bill") any day procedure centre, clinic or health services establishment which was managed or controlled by The University of Hong Kong ("HKU") or The Chinese University of Hong Kong ("CUHK") and primarily used for teaching or research relating to medicine or dentistry, as well as its advice that the 14 facilities as set out in the Annex to LC Paper No. CB(2)196/17-18(02) ("the 14 facilities") would meet the above proposed criteria for exclusion,
  - (i) advise whether there was any exclusion of similar nature in the laws of Hong Kong;
  - (ii) advise, in the form of a table, the respective governance mechanisms put in place by HKU, CUHK and the Hospital Authority ("HA"), as well as that introduced under the Bill to govern the 14 facilities, the healthcare facilities managed or controlled by HA, and the facilities that fell under the definition of "private healthcare

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facility" in the Bill. The regulatory mechanisms should cover, among others, the areas of corporate governance, standard of facilities, clinical quality, price transparency and complaints and medical incidents handling. Supporting documents issued by HKU and CUHK in this regard (e.g. clinical guidelines) and the number of substantiated and non-substantiated complaint cases so far handled by the 14 facilities should be provided for reference;

- (iii) explain with examples as how subjecting these facilities to regulation under the Bill would stifle their teaching or research activities and might cause them contravene the requirements imposed under the Bill if no changes were made to their existing governance mechanisms; and
  - (iv) provide statistics and information to quantify how the 14 facilities fulfilled the requirement of being "primarily used for teaching or research relating to medicine or dentistry", including, among others, the respective percentages of healthcare services provided by each facility that fell outside the scope of teaching or research activities and the amount of income so derived, and the respective numbers and durations of the teaching sessions conducted at each facility in the 2016-2017 academic year; and
- (b) provide a response to the views and questions raised by The Hong Kong Federation of Insurers on the Bill as set out in its submission (LC Paper No. CB(2)487/17-18(01)).

**II. Any other business**

- 3. Members agreed that the next meeting of the Bills Committee would be held on 12 January 2018 at 8:30 am.
- 4. There being no other business, the meeting ended at 6:36 pm.

**Proceedings of the fourth meeting of  
the Bills Committee on Private Healthcare Facilities Bill  
held on Tuesday, 12 December 2017, at 4:30 pm  
in Conference Room 2 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
<i>Agenda item I: Meeting with the Administration</i>			
001026 - 001225	Chairman	Opening remarks	
001226 - 002325	Chairman Admin	Briefing by the Administration on its response to the follow-up actions arising from the discussion at the meeting on 7 November 2017 [LC Paper No. CB(2)454/17-18(02)].	
002326 - 002512	Chairman Mr CHAN Kin-por Admin	The Administration undertook to meet with The Hong Kong Federation of Insurers and to keep in touch with operators of medical groups respectively to discuss their concerns on the Private Healthcare Facilities Bill ("the Bill"), and provide a written response to the submission from the former on the Bill [LC Paper No. CB(2)487/17-18(01)].	<b>Admin</b>
002513 - 004455	Chairman Dr Pierre CHAN Admin Associate Dean (Development), Faculty of Medicine, CUHK ("AD(D)/Med of CUHK") Senior Manager, HKU Health System, Li Ka Shing Faculty of Medicine, HKU ("SM/Med of HKU")	<p>Referring to the Administration's proposal to exclude from the Bill any day procedure centre, clinic or health services establishment which was managed or controlled by The University of Hong Kong ("HKU") or The Chinese University of Hong Kong ("CUHK") and primarily used for teaching or research relating to medicine or dentistry ("the exclusion proposal"), Dr Pierre CHAN pointed out that (a) one of the 14 facilities which the Administration considered meeting the exclusion criteria as set out in the Annex to LC Paper No. CB(2)196/17-18(02) ("the 14 facilities") was a service provider under the Project on Enhancing Radiological Investigation Services through Collaboration with the Private Sector implemented by the Hospital Authority ("HA"); and (b) some services provided by the 14 facilities required payment by patients.</p> <p>The Administration stressed that the primary purpose of the 14 facilities was for teaching and research relating to medicine or dentistry rather than service provision. AD(D)/Med of CUHK advised that all research activities of those facilities under the aegis of CUHK had to comply with the relevant research and ethical standards. The income, if any, derived by these facilities would be used for supporting the teaching and research activities of the facilities. SM/Med of HKU advised that for those facilities under HKU's aegis, all their patients were requested to complete a consent form for the purpose of teaching or research, and the service fees and charges were set on a cost recovery basis.</p> <p>Dr Pierre CHAN requested the Administration to provide statistics and information to quantify how the 14 facilities fulfilled the requirement of being "primarily used for teaching or research relating to medicine or dentistry", including, among others, the respective percentages of healthcare services</p>	<b>Admin</b>

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		provided by each facility that fell outside the scope of teaching or research activities and the amount of income so derived, and the respective numbers and durations of the teaching sessions conducted at each facility in the 2016-2017 academic year.	
004456 - 004950	Chairman Dr Helena WONG Admin AD(D)/Med of CUHK SM/Med of HKU	<p>In response to Dr Helena WONG's enquiry, the Administration advised that private hospitals managed or controlled by HKU or CUHK would be subject to the new regulatory regime for private healthcare facilities ("PHFs").</p> <p>At the request of Dr Helena WONG, the Administration undertook to provide a written response, in the form of a table, the respective governance mechanisms put in place by HKU, CUHK and HA, as well as that introduced under the Bill to govern the 14 facilities, the healthcare facilities managed or controlled by HA, and the facilities that fell within the definition of PHF in the Bill. The regulatory mechanisms should cover, among others, the areas of corporate governance, standard of facilities, clinical quality, price transparency and complaints and medical incidents handling.</p>	<b>Admin</b>
004951 - 010015	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai's concern that beauty parlours had to engage registered medical practitioners to perform the administration of local anaesthetics, which was legally obtained, for preventing pain of their customers during cosmetic tattooing; and his question as to whether the Administration would conduct active inspection of the premises providing cosmetic tattooing services to check, among others, compliance in this regard.</p> <p>The Chairman's remarks that the regulation over the supply and use of pharmaceutical products, including local anaesthetics, was covered by other pieces of legislation but not the Bill.</p> <p>The Administration's advice that traditional body tattooing was exempted from being regarded as a medical procedure as recommended by the Working Group on Differentiation between Medical Procedures and Beauty Services set up under the Steering Committee on Review of Regulation of PHFs. Separately, depending on the circumstances, the administration of local anaesthetics to a person for the purpose of pain control is an act of practising Western medicine. Should there be suspected illegal practice of medicine identified via complaints or other sources, the Department of Health would refer the case to the Police and provide professional support for their investigation.</p>	
010016 - 010641	Chairman Dr Pierre CHAN Admin	Dr Pierre CHAN's expression of support for the Bill; and his concern that while representatives of HKU and CHUK in the Project Steering Committee on Standards for Ambulatory Facilities were taking an active role in formulating various standards for day procedure centres and clinics under the new regulatory regime, the two universities proposed excluding their day procedure centres and clinics from regulation under the Bill. In reply to Dr Pierre CHAN's enquiry about the rationale for the proposed exemption for clinics which involved only "solo" or	

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		<p>small group practice but not for those clinics operated by one or two registered medical practitioners or registered dentists under the management of medical groups, the Administration advised that the registered medical practitioners or registered dentists practising in those clinics under the management of a third party would not have direct and full control of all operations of the clinics. For small practice clinics, it was required that the registered medical practitioners or registered dentists who operated the clinics had to be the only registered medical practitioners or registered dentists who served the clinics so as to ensure that they were the only ones responsible for the management of the clinics as well as practising in the clinics.</p>	
010642 - 013248	<p>Chairman Dr Fernando CHEUNG Admin SM/Med of HKU AD(D)/Med of CUHK Dr KWOK Ka-ki Mr CHAN Chi-chuen</p>	<p>Dr Fernando CHEUNG and Dr KWOK Ka-ki's remarks that they did not see the justifications for the exclusion proposal. The Chairman asked whether requiring those facilities of HKU and CUHK meeting the criteria of the exclusion proposal to comply with the requirements of the new regulatory regime for PHFs would have negative impact on their governance.</p> <p>The Administration's advice that HKU and CUHK had already put in place a robust governance structure comprising, among others, a complaints management system and a medical incidents reporting and handling system. The regulatory regime for ordinary PHFs might not sit well with the operational models of those facilities to be covered by the exclusion proposal. In addition, duplicating relevant efforts on governance, clinical management and complaints handling, etc. simply to ensure that these facilities also comply with another set of regulatory requirements under the Bill might not be an optimal use of resources by the two universities.</p> <p>SM/Med of HKU and AD(D)/Med of CUHK remarked that regarding the day procedure centres, clinics or health services establishments managed or controlled by HKU and CUHK which were primarily used for teaching or research relating to medicine or dentistry, the patient flow and care model of these facilities, which were served by university staff and medical students, were different from those in ordinary PHFs.</p> <p>Dr Fernando CHEUNG's request for the Administration to explain in writing with examples as how subjecting the 14 facilities to the new regulatory regime under the Bill would stifle their teaching or research activities; and might cause them contravene the requirements imposed under the Bill if no changes were made to their existing governance mechanisms.</p> <p>Dr KWOK Ka-ki and Mr CHAN Chi-chuen's concern that the exclusion proposal would set a bad precedence in regulatory control. Dr KWOK Ka-ki requested the Administration to advise whether there was any exclusion of similar nature in the laws of Hong Kong.</p>	<p><b>Admin</b></p> <p><b>Admin</b></p>
013249 - 014150	<p>Chairman Admin</p>	<p>The Chairman's view that in the case where a Medical Advisory Committee has been established for group of clinics, the</p>	

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		<p>licensee concerned should be allowed to appoint a single chief medical executive for the clinics if he or she had appointed for each of the clinics an administrative personnel, rather than a registered medical practitioner or a registered dentist who is serving the clinic as proposed, to assist the chief medical executive to carry out the day to day administration of the clinic.</p> <p>The Administration's advice that there was a need to ensure that the person appointed to assist the chief medical executive of group of clinics would have the professional knowledge required (such as drug management, infection control and risk management) to oversee the day to day administration of the clinic for the sake of patient safety. The Bill was silent on the number of clinics that person could serve to provide flexibility in manpower deployment.</p>	
014151 - 014913	Chairman Dr Fernando CHEUNG Admin	Expressing disagreement to the justifications given by the Administration and the representatives of the two universities concerned at the meeting and in LC Paper No. CB(2)454/17-18(02), Dr Fernando CHEUNG objected to the exclusion proposal.	
014914 - 015722	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai's remarks that some beauty parlours might have difficulty in meeting the requirement under clause 67 that permitted facilities (i.e. licensed facilities and exempted clinics) should have direct and separate entrance.</p> <p>In response to Mr SHIU Ka-fai's proposal that the requirement that the chief medical executive of a day procedure centre or a clinic could not serve at the same time as the chief medical executive of more than two day procedure centres or clinics should be relaxed in order not to stifle the development of the beauty industry, the Administration advised that more time was needed to fully assess the implications of the proposal in consultation with relevant stakeholders.</p>	
015723 - 015735	Chairman	At 18:23 pm, the Chairman decided to extend the meeting for 10 minutes beyond the appointed ending time.	
015736 - 020937	Chairman Mr CHAN Chi-chuen Admin Dr KWOK Ka-ki Dr Pierre CHAN	<p>Mr CHAN Chi-chuen's concern that the putting in place of a robust governance mechanism by HKU and CUHK could not justify the exclusion proposal; and his question about the details of the respective complaints management systems and medical incident reporting and handling systems of the 14 facilities and of PHFs to be regulated under the new regime.</p> <p>Dr KWOK Ka-ki's expression of objection to the exclusion proposal as it ran contrary to patients' interest (i.e. a prime concern in formulating the new regulatory regime).</p> <p>The Administration's briefing on its reply relating to complaints and medical incidents handling as set out in paragraphs 10 and 11 of LC Paper No. CB(2)454/17-18(02) and its undertaking to provide in writing the number of substantiated and non-substantiated complaint cases so far handled by the 14 facilities.</p>	<b>Admin</b>



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		<p>The Administration further advised that those patient organizations it had consulted on the proposal were of the view that the existence of a robust mechanism on clinical risk management as well as complaints and medical incidents handling were the key factors for determining whether the relevant facilities managed or controlled by the two universities should be excluded from regulation.</p> <p>Dr Pierre CHAN's request for the Administration to provide after the meeting supporting documents on the respective governance mechanisms put in place by HKU and CUHK issued by the two universities.</p>	<b>Admin</b>
<i>Agenda item II: Any other business</i>			
020938 - 021023	Chairman	<p>Closing remarks</p> <p>Date of next meeting</p>	

Council Business Division 2  
Legislative Council Secretariat  
13 November 2018