

**立法會**  
**Legislative Council**

LC Paper No. CB(2)461/18-19

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/8/16

**Bills Committee on Private Healthcare Facilities Bill**

**Minutes of the seventh meeting  
held on Friday, 16 March 2018, at 8:30 am  
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
  - Hon Alice MAK Mei-kuen, BBS, JP
  - 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** :
- Dr Hon KWOK Ka-ki
  - Dr Hon Fernando CHEUNG Chiu-hung
  - Dr Hon Junius HO Kwan-yiu, 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

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

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

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**I. Meeting with the Administration**

[LC Paper Nos. CB(2)1823/16-17(02), CB(2)454/17-18(03), CB(2)629/17-18(03), CB(2)894/17-18(01), CB(2)1005/17-18(01) to (02) and CB(3)687/16-17]

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

Continuation of clause-by-clause examination of the Bill

2. The Bills Committee continued clause-by-clause examination of the Private Healthcare Facilities Bill ("the Bill") from clause 23 and examined up to clause 63.

Follow-up actions required of the Administration

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3. The Bills Committee requested the Administration to:

- (a) explore whether the proposed deferment period as specified under clause 36(3) whereby the Director of Health ("the Director") might, if satisfied that the conditions specified in clause 36(4) were met, defer the cancellation of a licence on the death of the licensee who operated a day procedure centre, clinic or health services establishment as a sole proprietor (i.e. six weeks after the date of death of the licensee) would be sufficient enough for a new operator to apply for a new licence for the facility, as well as for the Director to process the application and issue a new licence as appropriate such that the facility concerned could continue to operate before it was qualified for a new licence;
- (b) in respect of clause 42 which provided that persons operating, or intending to operate, a small practice clinic might ask, if they so wished, the Director for a letter of exemption for the clinic concerned,
  - (i) provide, as it had undertaken under paragraph 16 of LC Paper No. CB(2)454/17-18(02), the draft of the request form for a letter of exemption to illustrate the information required so as to facilitate the examination of the clause; and
  - (ii) advise what could be done by the person making the request or the operator of an exempted clinic if he or she

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was aggrieved by the decision of the Director to refuse to issue a letter of exemption pursuant to clause 43(4) or revoke the exemption granted pursuant to clause 45, having regard to the fact that no appeal mechanisms against such decisions were provided for in the Bill;

- (c) consider whether the Chinese rendition "行止端正" of the term "integrity" in the English text of clause 51(c) could accurately reflect the English text, and give due regard to the use of the Chinese renditions "行事持正" and "正直品格" for the same term under section 18B(1)(c) of the Professional Accountants Ordinance (Cap. 50) and Rule 2 of the Solicitors' Practice Rules (Cap. 159H) respectively;
- (d) advise the progress or outcome of the consultation work that it had carried out on the proposal raised by some members at previous meetings of the Bills Committee that a registered medical practitioner should be allowed to serve at the same time as the chief medical executive of more than two day procedure centres or clinics which were operated by different licensees. According to the response given by the Administration in paragraph 22 of LC Paper No. CB(2)454/17-18(02), it would fully assess the implications of this proposal in consultation with the relevant stakeholders before considering whether it was appropriate to relax the above requirement as set out in clause 53(4) via an amendment to the Bill;
- (e) in respect of the requirement under clause 63(2) that the licensee of a private hospital had to publish the historical statistics on fees and charges for the specified treatments and procedures in the way specified by the Director, advise with an example the types and the form of presentation of the requisite statistics; and
- (f) in respect of its advice that certain provisions, including, among others, the prohibition and offence provisions, of the Bill, if passed, would come into operation at a later stage by means of the gazettal of a commencement notice, advise the provisions involved, the initial commencement timetable of these provisions, as well as the measure(s) to be put in place by the Administration to ensure that the stakeholders would be aware of the phased implementation timetable of the new regulatory regime.

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**II. Any other business**

4. Members agreed that the next meeting of the Bills Committee would be held on 9 April 2018 at 2:30 pm.
5. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2  
Legislative Council Secretariat  
14 December 2018

**Proceedings of the seventh meeting of  
the Bills Committee on Private Healthcare Facilities Bill  
held on Friday, 16 March 2018, at 8:30 am  
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> |
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| <i>Agenda item I: Meeting with the Administration</i> |   |  |                        |
| 000636 -<br>000702                                    | Chairman                                    | Opening remarks  |                        |
| 000703 -<br>000833                                    | Chairman<br>Admin                           | Members noted the Administration's response to the follow-up actions arising from the discussion at the meeting on 13 February 2018 [LC Paper No. CB(2)1005/17-18(02)]; and the working drafts of the codes of practice ("CoPs") to be issued by the Director of Health ("the Director") under clause 102 of the Private Healthcare Facilities Bill ("the Bill") for compliance by day procedure centres and clinics in respect of the regulatory standards of these facilities as provided by the Administration [LC Paper No. CB(2)894/17-18(01)].   |                        |
| 000834 -<br>001045                                    | Chairman<br>Admin<br>ALA9                   | Continuation of clause-by-clause examination of the Bill<br><br><u>Examination of clauses 23 and 24</u><br><br>The Legal Adviser to the Bills Committee drew members' attention that the respective meanings of "scale" and "scope" in relation to the services provided in a private healthcare facility ("PHF") as referred to in clause 23 were set out under clause 2(1).  |                        |
| 001046 -<br>001301                                    | Chairman<br>Admin<br>Dr Pierre CHAN         | <u>Examination of clauses 25 to 27</u><br><br>Dr Pierre CHAN's concern that under clause 26(1) of the Bill, the period within which an applicant had to provide certain information or documents in support of his or her application for a licence to operate a PHF would be specified by the Director but not provided for in the Bill.<br><br>In response to the Chairman's enquiry as to whether a fresh licence application could be made in case an application was taken to have been withdrawn under clause 26 of the Bill or was refused by the Director, the Administration replied in the positive. |                        |
| 001302 -<br>001600                                    | Chairman<br>Admin                           | <u>Examination of clauses 28 to 34</u>   |                        |
| 001601 -<br>002814                                    | Chairman<br>Admin<br>Dr Pierre CHAN<br>ALA9 | <u>Examination of clauses 35 and 36</u><br><br>In response to the Chairman's enquiry, the Administration advised that a licensee who, without reasonable excuse, failed to make a request in writing to the Director to cancel the licence if the licensee intended to cease operating the facility before the licence expired would commit an offence under clause 35 of the Bill.<br><br>Dr Pierre CHAN's concern as to whether the proposed deferment period as specified under clause 36(3) of the Bill whereby the  |                        |

| Time marker     | Speaker  | Subject(s)/Discussion  | Action required |
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|                 |  | <p>Director might, if satisfied that the conditions specified in clause 36(4) were met, defer the cancellation of a licence by order on the death of the licensee who operated a day procedure centre, clinic or health services establishment as a sole proprietor (i.e. six weeks after the date of death of the licensee) would be sufficient enough for a new operator to apply for a new licence for the facility, as well as for the Director to process the application and issue a new licence as appropriate such that the facility concerned could continue to operate before it was qualified for the new licence. In response, the Administration agreed to explore whether a longer deferment period should be set in this regard.</p> <p>In reply to the follow-up enquiries of the Legal Adviser to the Bills Committee, the Chairman and Dr Pierre CHAN in respect of clause 36, the Administration advised that the Bill did not provide for the transfer of a licence. Upon the death of an individual licensee, the new operator had to apply for a new licence in order to continue the operation of the PHF concerned after the deferment period.</p>   | <b>Admin</b>    |
| 002815 - 004830 | Chairman<br>Admin<br>ALA9<br>Dr Helena WONG<br>Dr Pierre CHAN<br>Prof Joseph LEE | <p><u>Examination of clauses 37 to 40</u></p> <p>The Legal Adviser to the Bills Committee and Dr Helena WONG sought elaboration about the circumstances under which a PHF would be regarded as being, or having been, used in a way not serving a purpose reasonably incidental to the type of facility for which the licence was issued, which was a ground for action in relation to licence as set out in clause 38(1)(d)(i) of the Bill.</p> <p>The Administration advised that depending on circumstances, organization of health talks and provision of services (e.g. Chinese medicine service, optometric service and physiotherapeutic service) to support the medical services provided by the facility would generally not be regarded as having used the facility in a way not serving a purpose reasonably incidental to the type of facility for which the licence was issued.</p> <p>In response to Dr Helena WONG and the Chairman's follow-up enquiries, the Administration advised that it was provided for under clause 23 of the Bill that the licensee of a PHF might apply to the Director to vary the scope of services specified in the licence. On receiving the application, the Director would decide whether to approve or refuse it. Upon the passage of the Bill, the Administration would issue a guideline similar to the existing guidance notes for application of change in hospital management and/or services of private hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) to specify clearly what would constitute a change in the scope of services. Prof Joseph LEE remarked that details in this regard should be provided for in the CoPs to be issued by the Director under clause 102 of the Bill.</p> <p>In reply to Dr Pierre CHAN's enquiry as to the actions to be taken by the Director if a licensee changed the scope of services of a facility without applying to the Director to vary the scope of</p> |                 |

| Time marker     | Speaker  | Subject(s)/Discussion   | Action required                         |
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|                 |  | <p>services specified in the licence, the Administration advised that the Director might, among others, make an order under clause 29(1) to suspend the relevant facility service, which could be the operation of a section or unit in the facility, for a period the Director considered appropriate. According to clause 34 of the Bill, a licensee of a PHF would commit an offence for failure to comply with an order in relation to suspending a facility service in the facility.</p>   |   |
| 004831 - 011257 | <p>Chairman<br/>Admin<br/>Dr Pierre CHAN<br/>ALA9</p>                    | <p><u>Examination of clauses 41 to 46</u></p> <p>Dr Pierre CHAN's concern over the timetable for commencing the various provisions of the Bill, in particular those relating to the licensing of clinics and exemption for small practice clinics from licensing, upon the passage of the Bill.</p> <p>The Administration advised that the new regulatory regime would commence in phases, with the regulatory regime of riskier types of PHFs put in force earlier. For clinics, to allow existing clinics to continue to operate before it was qualified for the full licence, the Director would, if satisfied that certain conditions were met, issue a provisional licence to the operator of an existing clinic after receiving the operator's applications for a full licence. Operators of small practice clinics could ask the Director for a letter of exemption in respect of the clinics. Relevant prohibition and offence provisions would come into operation at a later stage by means of the gazettal of a commencement notice when the Administration considered that both the public and stakeholders were ready for full-scale regulation, in respect of the type of PHFs concerned.</p> <p>At the request of Dr Pierre CHAN, the Administration agreed to (a) provide in writing the preliminary commencement timetable of the prohibition and offence provisions of the Bill, and the measure(s) to be put in place to ensure that the stakeholders would be aware of the phased implementation timetable of the new regulatory regime; and (b) provide the draft of the request form for a letter of exemption to illustrate the information required.</p> <p>The Legal Adviser to the Bills Committee drew members' attention that no appeal mechanisms against the decision of the Director to refuse to issue a letter of exemption pursuant to clause 43(4) or to revoke the exemption granted pursuant to clause 45 were provided for in the Bill. The Chairman requested the Administration to advise in writing as to what could be done by the person making the request or the operator of an exempted clinic if he or she was aggrieved by such decision.</p> | <p><b>Admin</b></p> <p><b>Admin</b></p> |
| 011258 - 012643 | <p>Chairman<br/>Admin<br/>Dr Pierre CHAN<br/>ALA9<br/>Mr SHIU Ka-fai</p> | <p><u>Examination of clauses 47 to 55</u></p> <p>In respect of the general requirements for the chief medical executive of a PHF as set out in clause 51, the Legal Adviser to the Bills Committee expressed concern as to whether the Chinese rendition "行止端正" of the term "integrity" in the English text of clause 51(c) could accurately reflect the English text. She drew</p>   |   |



| Time marker     | Speaker  | Subject(s)/Discussion   | Action required                         |
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|                 |  | <p>members' attention that the Chinese renditions "行事持正" and "正直品格" were used for the same term under section 18B(1)(c) of the Professional Accountants Ordinance (Cap. 50) and Rule 2 of the Solicitors' Practice Rules (Cap. 159H) respectively. The Administration agreed to provide a written response in this regard.</p> <p>In response to the Chairman's enquiry in respect of clause 53(4) of the Bill, the Administration undertook to advise in writing the progress or outcome of the consultation work that it had carried out on the proposal raised by some members at previous meetings of the Bills Committee that a registered medical practitioner should be allowed to serve at the same time as the chief medical executive of more than two day procedure centres or clinics which were operated by different licensees.</p>   | <p><b>Admin</b></p> <p><b>Admin</b></p> |
| 012644 - 013527 | <p>Chairman<br/>Admin<br/>ALA9<br/>Dr Pierre CHAN</p>                                  | <p><u>Examination of clauses 56 to 60</u></p> <p>On the Chairman's concern that it might not be easy for licensees of private hospitals or those clinics as set out in clause 56(1) to appoint at least one registered medical practitioner who was not employed by, or practicing in, the facility to be a member of the Medical Advisory Committee of the facility, the Administration advised that no adverse views had been received from The Hong Kong Private Hospitals Association in this regard.</p> <p>In reply to Dr Pierre CHAN's enquiry, the Administration advised that the Bill was silent as to whether a registered medical practitioner could serve on more than one Medical Advisory Committee set up under clause 57 of the Bill.</p> <p>In response to the Legal Adviser to the Bills Committee's enquiry on when the licensee of a PHF concerned had to, in accordance with clause 60(b), provide in writing to the Director a list of the members of the Medical Advisory Committee, the Administration advised that in the case of a hospital, the licensee should provide such information whenever there was a change in the membership and when the licensee applied to the Director for renewal of the licence. The requirements would be set out in the relevant CoP.</p> |   |
| 013528 - 020856 | <p>Chairman<br/>Admin<br/>Mr Tommy CHEUNG<br/>Dr Pierre CHAN<br/>Mr CHAN Chi-chuen</p> | <p>At 10:27 am, the Chairman extended the meeting time for five minutes beyond the appointed ending time at 10:30 am.</p> <p><u>Examination of clauses 61 to 63</u></p> <p>The Chairman and Dr Pierre CHAN's concerns over the way to be specified by the Director under clause 61 for the licensee of a PHF to make available to the public information about the prices of chargeable items and services provided in the facility as specified by the Director.</p> <p>The Administration advised that at present, private hospitals were required under the existing Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes to make available an up-to-date schedule of charges on specified items for patients' reference at the admission offices, cashiers, and where appropriate. Private</p>   |   |

| Time marker                               | Speaker  | Subject(s)/Discussion  | Action required |
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|   |          | <p>hospitals had also publicized on their websites, among others, the fee schedules of six categories of major chargeable items under the pilot programme for enhancing price transparency for private hospitals. Under the new regime, a clinic would be required to post a fee schedule in conspicuous places at its premises, and patients should be notified of the charges upon request.</p> <p>Mr Tommy CHEUNG was concerned that the measures being put in place by private hospitals under the pilot programme and the Bill could not address the problem of uncertainty over payment, as operating theatre charges only provided the hourly rental rate of the operation theatre but not a packaged charge and the ward round fee did not provide the fee of individual doctors. It was also unreasonable that the levels of service charges and charges for equipment, instruments, medications and consumables were dependable on the class of wards a patient stayed. To enhance competition, a registered medical practitioner should be allowed to practise in all public and private hospitals.</p> <p>Dr Pierre CHAN pointed out that charges of private hospitals were market-driven. He remarked that private patient services were currently available in the two teaching hospitals.</p> <p>The Administration advised that the pilot programme and the Bill were the initial steps in enhancing the price transparency of private hospitals. It should, however, be noted that price setting and pricing practice of private hospitals would not be regulated under the Bill. The Administration would relay to the private hospitals some members' concern on the private hospitals' common practice of linking the levels of service charges to the types of ward, and would encourage them to explain to their patients clearly the various levels of service charges according to the types of ward.</p> <p>In response to Mr CHAN Chi-chuen's concern, the Administration agreed to, in respect of the requirement under clause 63(2) that the licensee of a private hospital had to publish the historical statistics on fees and charges for the specified treatments and procedures in the way specified by the Director, advise in writing with an example the types and the form of presentation of the requisite statistics.</p> | <b>Admin</b>    |
| <i>Agenda item II: Any other business</i> |          |  |                 |
| 020857 -<br>020925                        | Chairman | <p>Closing remarks</p> <p>Date and time of next meeting</p>  |                 |