

立法會
Legislative Council

LC Paper No. CB(2)697/18-19

(These minutes have been
seen by the Administration)

Ref : CB2/BC/8/16

Bills Committee on Private Healthcare Facilities Bill

**Minutes of the ninth meeting
held on Monday, 23 April 2018, at 10:45 am
in Conference Room 3 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 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
 - Dr Hon Junius HO Kwan-yiu, JP
 - Hon SHIU Ka-fai
 - Hon SHIU Ka-chun
- Members absent** :
- Hon Andrew WAN Siu-kin
 - Hon HO Kai-ming
 - Dr Hon Pierre CHAN

Public Officers : attending	Mr FONG Ngai Deputy Secretary for Food and Health (Health) Special Tasks Food and Health Bureau
	Mr Bill LI Chi-pang Principal Assistant Secretary for Food and Health (Health) Special Tasks 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 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
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 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)1219/17-18(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 from clause 68 and examined up to clause 77.

Follow-up actions required of the Administration

Admin

3. The Bills Committee requested the Administration to:

- (a) consider a member's view that the present drafting of the heading as well as the text of clause 70 was not able to reflect clearly the legislative intent to regulate the use of names or descriptions that included the expression "operating room", "operation room", "operating theatre", "operation theatre", "手術室", "手術房" or "手術間", or a similar expression by the permitted facilities;
- (b) in respect of the composition of the Committee on Complaints against Private Healthcare Facilities ("the Complaints Committee") to be appointed by the Secretary for Food and Health ("the Secretary") as set out in clause 71, which consisted of a chairperson; a deputy chairperson; and 24 to 48 other members, with at least half of them being persons who were neither registered medical practitioners nor registered dentists,
 - (i) consider some members' view that the chairperson of the Complaints Committee should be neither a registered medical practitioner nor a registered dentist in order to ensure that facility complaints would be handled in an impartial manner; and

Action

- (ii) address some members' concern that since 13 members would form a quorum at a meeting of the Complaints Committee as set out in clause 74(1), how a balanced participation of those members being registered medical practitioners or registered dentists and those members being neither registered medical practitioners nor registered dentists could be ensured;
- (c) advise whether amendments would be introduced to clause 72(1)(b) to provide for flexibility that one or more legal advisers could be appointed by the Secretary for the Complaints Committee; and
- (d) provide a response to the issues raised by Dr Hon Pierre CHAN in his letter dated 20 April 2018 (LC Paper No. CB(2)1252/17-18(01)).

II. Any other business

- 4. The Chairman reminded members that the Bills Committee would hold its next meeting on 14 May 2018 at 4:30 pm.
- 5. There being no other business, the meeting ended at 12:22 pm.

Council Business Division 2
Legislative Council Secretariat
23 January 2019

**Proceedings of the ninth meeting of
the Bills Committee on Private Healthcare Facilities Bill
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Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
001113 - 001202	Chairman	Opening remarks	
001203 - 001323	Chairman Admin	<p>The Administration briefed members on its responses to the follow-up actions arising from the discussion at the meeting on 9 April 2018 [LC Paper No. CB(2)1219/17-18(02)]; and added that it would revert to the Bills Committee on the outcomes of its discussions with representatives from private hospitals, patient groups and the Consumer Council on the pricing practice of private hospitals when available.</p> <p>At the Chairman's request, the Administration undertook to provide a written response to the issues raised by Dr Pierre CHAN in his letter dated 20 April 2018 [LC Paper No. CB(2)1252/17-18(01)].</p>	Admin
001324 - 001613	Chairman ALA9 Admin	<p>Continuation of clause-by-clause examination of the Bill</p> <p><u>Examination of clauses 68 and 69</u></p> <p>On the Legal Adviser to the Bills Committee's remarks that the meaning of "registered medical practitioner resident in the hospital" in clause 69 was not provided in the Bill, the Administration advised that the proposed requirement was modeled on the relevant requirement in the existing Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes.</p>	
001614 - 003548	Chairman Admin Mr Tommy CHEUNG Dr CHIANG Lai-wan ALA9	<p><u>Examination of clause 70</u></p> <p>The Administration agreed to consider and provide a written response to Mr Tommy CHEUNG's view that the present drafting of the heading as well as the text of clause 70 was not able to reflect clearly the legislative intent to regulate the use of names or descriptions that included the expression "operating room", "operation room", "operating theatre", "operation theatre", "手術室", "手術房" or "手術間", or a similar expression by the permitted facilities.</p> <p>In response to Dr CHIANG Lai-wan's enquiries, the Administration advised that the Bill did not restrict the use of names that included the expression "procedure room" or "treatment room" by permitted facilities. Schedule 2 to the Bill had specified the medical procedures that could be carried out in a day procedure centre but not in a clinic. Despite the above, the Director of Health ("the Director") might, in the relevant</p>	Admin

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		<p>code of practice ("CoP"), specify certain medical procedures which could only be carried out in a hospital.</p> <p>In response to the enquiry of the Legal Adviser to the Bills Committee on the considerations to be given by the Director as to whether a written approval would be granted to a room/unit/section of a permitted facility to bear a name or description that included an expression specified under clause 70, the Administration advised that the facility had to comply with the relevant requirements set out in the CoPs to be issued by the Director on regulatory standards for various types of private healthcare facilities ("PHFs").</p>	
003549 - 010308	<p>Chairman Admin Dr CHIANG Lai-wan Dr Helena WONG Ms Alice MAK</p>	<p><u>Examination of clause 71</u></p> <p>On Dr CHIANG Lai-wan, Dr Helena WONG and Ms Alice MAK's view that the chairperson of the Committee on Complaints against Private Healthcare Facilities ("the Complaints Committee") should be neither a registered medical practitioner nor a registered dentist in order to ensure that the facility complaints would be handled in an impartial manner, the Administration advised that the current drafting would provide sufficient flexibility for the Secretary for Food and Health ("the Secretary") to appoint a lay person as the chairperson as he or she saw fit. In response to Dr CHIANG Lai-wan's enquiry, the Administration advised that the Medical Registration Ordinance (Cap. 161) was silent as to whether the chairperson of an Inquiry Panel appointed by the Medical Council of Hong Kong ("the Medical Council") had to be a registered medical practitioner or a lay person.</p> <p>In response to Dr Helena WONG's enquiry as to the reason why a public officer was not an ex-officio member of the Complaints Committee, and was ineligible for appointment as a member of the Complaints Committee in accordance with clause 71(5), the Administration advised that a public officer would be appointed by the Secretary as the secretary of the Complaints Committee which was responsible for, among others, receiving and considering facility complaints; making recommendations to the Director on matters relating to facility complaints which included whether to take regulatory action against the PHFs concerned; and referring, in appropriate cases, facility complaints to regulatory authorities for any follow-up action.</p> <p>Ms Alice MAK was concerned that since 13 members would form a quorum at a meeting of the Complaints Committee as set out in clause 74(1), how a balanced participation of those members being registered practitioners or registered dentists and those members being neither registered medical practitioners nor registered dentists could be ensured.</p> <p>Dr Helena WONG's concern that no appeal mechanism was provided for under the Bill such that those complainants who were aggrieved by the decisions of the Complaints Committee could appeal for a review of the decisions.</p>	

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010309 - 010623	Chairman Admin Dr CHIANG Lai-wan Dr Helena WONG Ms Alice MAK	<p><u>Examination of clause 72</u></p> <p>Ms Alice MAK's request for the Administration to ensure that the drafting of clause 72(1)(b) could provide flexibility for the Secretary to appoint more than one legal adviser for the Complaints Committee, where necessary. The Administration agreed to provide a written response in this regard.</p> <p>In response to Dr CHIANG Lai-wan's question about whether the person to be appointed as a legal adviser of the Complaints Committee would be engaged on a part-time or full-time basis, the Administration advised that the Bill was silent on the engagement arrangement to provide flexibility in this regard.</p> <p>In response to Dr Helena WONG's enquiry, the Administration advised that the legal adviser(s) could be appointed from outside the public service. It would provide adequate resources for engaging more than one legal adviser where necessary.</p>	Admin
010624 - 011947	Chairman Admin Dr CHIANG Lai-wan Dr Helena WONG	<p><u>Examination of clause 73</u></p> <p>Dr Helena WONG's enquiry and the Administration's elaboration on the complaints handling procedure that the licensee of a PHF had to put in place for receiving, managing and responding to complaints that were received against the facility; as well as the functions of the Complaints Committee under clause 73(1) and the recommendations that a case panel might make, after considering a facility complaint, for consideration of the Complaints Committee as set out in clause 86(2).</p> <p>In response to Dr CHIANG Lai-wan's enquiries, the Administration advised that the regulatory actions the Director might take against a PHF in relation to facility complaints as referred to in clause 73(1)(c) included, among others, refuse to renew the licence, suspend a licence for a specified period and cancel a licence by order; and the regulatory authorities referred to in clause 73(1)(d) included, among others, the Medical Council, the Dental Council of Hong Kong and the Nursing Council of Hong Kong.</p> <p>On Dr Helena WONG's view that the Director or the Complaints Committee should make public those facility complaint cases which involved significant public interest, the Administration advised that under clause 73(1)(g), the Complaints Committee would publish on a regular basis summary reports on the facility complaints it had handled and its recommendations to the Director and the PHFs concerned. A dedicated website would be set up for the purpose of, among others, publication of such information.</p>	
011948 - 012046	Chairman Admin Ms Alice MAK	<p><u>Examination of clause 74</u></p> <p>Ms Alice MAK's reiteration of her concern on how to ensure a balanced participation of those members being registered medical practitioners or registered dentists and those members</p>	

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		being neither registered medical practitioners nor registered dentists under the quorum requirement for a meeting of the Complaints Committee. The Administration agreed to revert in writing.	Admin
012047 - 012257	Chairman Admin Dr CHIANG Lai-wan	<u>Examination of clause 75</u> Dr CHIANG Lai-wan's request for the Administration to consider her suggestion that the chairperson of the Complaints Committee should be neither a registered medical practitioner nor a registered dentist.	Admin
012258 - 012537	Chairman Admin Ms Alice MAK	<u>Examination of clause 76</u> Ms Alice MAK's enquiry and the Administration's elaboration on the proposed arrangement for transaction of business by the Complaints Committee by circulation of papers.	
012538 - 014019	Chairman Admin Dr CHIANG Lai-wan	<u>Examination of clause 77</u> The Chairman and Dr CHIANG Lai-wan's concern about whether the composition of the preliminary processing panel(s) to be appointed by the Complaints Committee could ensure that the preliminary processing of facility complaints would be dealt with in an impartial manner; and Dr CHIANG Lai-wan's suggestion that all members of the Complaints Committee should be allowed to indicate if they were interested to serve on a preliminary processing panel, and in case more than five members had indicated such interest, the chairperson of the Complaints Committee should determine, by drawing lots, whom among these members should become members of the preliminary processing panel concerned. The Administration's advice that according to clause 71(9), the Complaints Committee might determine its own procedure except as otherwise provided in the Bill. On this premise, the Complaints Committee could determine, where necessary, how the appointment of members of the Complaints Committee onto the preliminary processing panels should be made. According to clause 77(2) and (4), a preliminary processing panel was to consist of not less than three, and not more than five, members appointed by the chairperson of the Complaints Committee, among whom had to include at least one member who was neither a registered medical practitioner nor a registered dentist.	
<i>Agenda item II: Any other business</i>			
014020 - 014123	Chairman	Closing remarks Date of next meeting	

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