

立法會
Legislative Council

LC Paper No. CB(2)733/18-19

(These minutes have been
seen by the Administration)

Ref : CB2/BC/8/16

Bills Committee on Private Healthcare Facilities Bill

**Minutes of the twelfth meeting
held on Tuesday, 26 June 2018, at 8:30 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
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
Hon Andrew WAN Siu-kin
Dr Hon Junius HO Kwan-yiu, JP
Hon SHIU Ka-fai
Hon SHIU Ka-chun

Members absent : Prof Hon Joseph LEE Kok-long, SBS, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon CHIANG Lai-wan, JP
Hon HO Kai-ming
Dr Hon Pierre CHAN

Public Officers attending : Mr FONG Ngai
Deputy Secretary for Food and Health (Health) 3
Food and Health Bureau

Mr Bill LI Chi-pang
Principal Assistant Secretary for Food and Health
(Health) 4
Food and Health Bureau

Mr Michael LI Chi-lung
Assistant Secretary for Food and Health (Health) 4B
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)1550/17-18(01), CB(2)1644/17-18(01) to (03) 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 completed the clause-by-clause examination of the Chinese text of the Private Healthcare Facilities Bill ("the Bill"). The Legal Adviser to the Bills Committee was requested to examine the legal and drafting aspects of the English text of the Bill.

Draft amendments to the Bill proposed by Mr Tommy CHEUNG

3. Members noted the draft amendments to the Bill proposed by Mr Tommy CHEUNG as set out in LC Paper No. CB(2)1550/17-18(01) and that the Administration had adopted the amendments, with suitable modifications, as part of its draft proposed amendments to the Bill.

Draft amendments to the Bill proposed by the Administration

4. The Bills Committee completed examining the draft amendments to the Bill to be proposed by the Administration as set out in LC Paper No. CB(2)1644/17-18(03). The Administration undertook to:

- (a) replace the expression "teaching university" in the proposed amendments to clauses 2(1), 3, 12(3) and 92(6) and the expression "Teaching Universities" in the proposed new Schedule 1A by the expressions "scheduled university" and "Scheduled Universities" respectively; and
- (b) review whether the expression "(of 2017)" after "the Private Healthcare Facilities Ordinance" in the English text of clause 161 should be revised to "(of 2018)".

Admin

5. The Bills Committee requested the Administration to provide after the meeting a full set of the revised draft amendments to be proposed by the Administration to the Bill for onward circulation to members of the Bills Committee for consideration.

Action

6. Members agreed to the Chairman's suggestion that subject to any views members might have on the revised draft amendments to be proposed by the Administration to the Bill, the Bills Committee would hold no further meeting. Members further agreed that if no further meeting needed to be held, the Bills Committee would complete scrutiny of the Bill.

(Post-meeting note: The full set of revised draft amendments to be proposed by the Administration to the Bill was circulated vide LC Paper No. CB(2)1719/17-18(01) on 3 July 2018 for members' consideration. Members were informed that the Legal Adviser to the Bills Committee had no comments on the legal and drafting aspects of the English text of and the revised draft amendments to be proposed by the Administration to the Bill. No views from members on the revised draft amendments to the Bill were received by the specified deadline.)

Legislative timetable

7. The Bills Committee noted the Administration's intention to resume the Second Reading debate on the Bill in the second half of 2018.

II. Any other business

8. There being no other business, the meeting ended at 10:26 am.

Council Business Division 2
Legislative Council Secretariat
29 January 2019

**Proceedings of the twelfth meeting of
the Bills Committee on Private Healthcare Facilities Bill
held on Tuesday, 26 June 2018, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
001444 - 001625	Chairman	Opening remarks Members noted that the Administration had provided a written response to the issues raised in Dr Pierre CHAN's letter dated 8 June 2018 [LC Paper No. CB(2)1656/17-18(01)].	
001626 - 001749	Chairman Admin	Briefing by the Administration on its responses to the follow-up actions arising from the discussion at the meeting on 11 June 2018 [LC Paper No. CB(2)1644/17-18(02)].	
001750 - 001856	Chairman Admin	Continuation of clause-by-clause examination of the Bill <u>Examination of Schedule 1</u>	
001857 - 002133	Chairman Admin ALA9	<u>Examination of Schedule 2</u> In response to the Legal Adviser to the Bills Committee's enquiry as to the reasons why the medical procedures described in column 3 of Schedule 2 should not be regarded as a scheduled medical procedure that could be carried out in a day procedure centre but not in a clinic, the Administration advised that it was proposed that these medical procedures could be carried out in a clinic under the risk-based approach.	
002134 - 002630	Chairman Admin Mr CHAN Chi-chuen	<u>Examination of Schedule 3</u> In reply to Mr CHAN Chi-chuen's query on the review of the level of fees payable in relation to applications for licences and other matters under the Bill as set out in Schedule 3, the Administration advised that any amendments to the Schedule would be subject to the negative vetting procedure.	
002631 - 002700	Chairman Admin	<u>Examination of Schedule 4</u>	
002701 - 003336	Chairman Admin Mr YIU Si-wing ALA9	<u>Examination of Schedule 5</u> On the Legal Adviser to the Bills Committee's enquiry concerning the listing of the 25 scheduled clinics in Schedule 5, the Administration advised that certain medical practitioners with limited registration had been practising in medical clinics registered under Medical Clinics Ordinance (Cap. 343). These clinics were listed in Schedule 5 to the Bill. The persons responsible for the medical management of these clinics were medical practitioners under limited registration. In reply to Mr YIU Si-wing's question, the Administration advised that any amendments to Schedule 5 arising from the cessation of operation of a scheduled clinic would be subject to the negative vetting procedure.	

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003337 - 003433	Chairman Admin	<u>Examination of Schedule 6</u>	
003434 - 003851	Chairman Admin Dr Helena WONG	<p>Dr Helena WONG was concerned that the Administration had dragged its feet for more than two decades over the uncommenced provisions of the Nurses Registration (Amendment) Ordinance 1997 in relation to electing six members, who were registered nurse or enrolled nurses, onto the Nursing Council of Hong Kong.</p> <p>The Administration's advice that following the publication of the report of the strategic review on healthcare manpower planning and professional development in June 2017, it had engaged the relevant professional bodies, including the Nursing Council of Hong Kong, to follow up on the recommendations of the strategic review and related matters.</p>	
003852 - 004220	Chairman Admin Dr Helena WONG	<p><u>Examination of Schedule 7</u></p> <p>In reply to Dr Helena WONG's question as to whether a beauty centre which was not a permitted facility under the new regime would be allowed to bear the title of "beauty clinic", the Administration advised that clause 92(1) provided that except with the prior approval in writing of the Director of Health ("the Director"), or except as provided or permitted by any other law, no premises (other than a permitted facility) might bear a title or description that included an expression specified in Schedule 7, or a similar expression; and that suggested that the services provided in the premises were medical services provided in a private healthcare facility ("PHF").</p>	
004221 - 004229	Chairman Admin	<u>Examination of Schedule 8</u>	
004230 - 004323	Chairman Admin	<u>Examination of Schedule 9</u>	
004324 - 004622	Chairman ALA9 Admin	<p>Completion of clause-by-clause examination of the Chinese text of the Bill</p> <p>In reply to the enquiries of the Legal Adviser to the Bills Committee and the Chairman on the commencement of the Bill (if passed), the Administration advised that if the Bill was passed by end of 2018, the Administration's plan was to commence the registration for private hospitals in mid-2019, to be followed by the registration of day procedure centres and clinics in 2020 and 2021 respectively.</p>	
004623 - 004730	Chairman Mr Tommy CHEUNG	Members noted that the Administration would adopt, with suitable modifications, Mr Tommy CHEUNG's draft proposed amendments to clauses 61 and 62 [LC Paper No. CB(2)1550/17-18(01)] as part of its draft amendments to the Bill.	
004731 - 005548	Chairman Admin	The Administration's briefing on its draft proposed amendments to the Bill, details of which were set out in its paper [LC Paper	

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		No. CB(2)1644/17-18(03)]; and its undertaking that on the suggestion of Dr Helena WONG, it would specify in the relevant Code of Practice under the new regulatory regime that all private hospitals should register as a healthcare provider under the Electronic Health Record Sharing System.	
005549 - 010639	Chairman Admin Dr Helena WONG	<p><u>Proposed amendments to clauses 2(1), 3 and 12(3)</u></p> <p>Dr Helena WONG's enquiry and the Administration's response concerning the exclusion of day procedure centres, clinics or health services establishments primarily used for teaching or research relating to medicine or dentistry and that were managed or controlled by The University of Hong Kong or The Chinese University of Hong Kong from the new regulatory regime.</p> <p>The Administration's undertaking to review the use of the expression "teaching university" in the proposed amendments in view of Dr Helena WONG's concern.</p>	
010640 - 010742	Chairman Admin	<u>Proposed amendments to clause 36(3)</u>	
010743 - 011819	Chairman Admin Dr Helena WONG Mr SHIU Ka-fai	<p><u>Proposed amendments to clauses 50, 51(c), 53(4), 53(5) and 56(2)</u></p> <p>Dr Helena WONG's questions and the Administration's elaboration on the responsibilities of a chief medical executive and the number of day procedure centres or clinics a chief medical executive could serve at the same time under the proposed amendments.</p> <p>In response to Mr SHIU Ka-fai's enquiry, the Administration advised that a beauty centre which fell within the meaning of "day procedure centre" under the Bill had to be operated with a day procedure centre licence.</p> <p>In respect of the registered medical practitioner or registered dentist who was appointed by the licensee to assist the chief medical executive in carrying out the day to day administration of the clinic under clause 50, Mr SHIU Ka-fai enquired whether there was any requirements concerning the number of hours that the registered medical practitioner or registered dentist concerned had to serve the clinic. The Administration replied that the Bill was silent in this regard.</p>	
011820 - 012023	Chairman Admin	<u>Proposed amendments to clauses 61, 62, 70, 72(1)(b) and 82(1)</u>	
012024 - 012116	Chairman Admin Dr Helena WONG	<p><u>Proposed amendments to clauses 92(1)(a) and 92(6)</u></p> <p>Dr Helena WONG reiterated her concern over the use of the expression "teaching university" in the proposed amendments to clause 92(6).</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
012117 - 012226	Chairman Admin	<u>Proposed amendments to clauses 93(1) and 96(1)(b)</u>	
012227 - 012354	Chairman Admin	<u>Proposed amendments to clause 118</u> The Chairman's enquiry and the Administration's response on the aim of the proposed amendments to clause 118(1)(a).	
012355 - 012520	Chairman Admin	<u>Proposed amendments to clause 122(2), 123, 124</u>	
012521 - 013248	Chairman Admin ALA9	<u>Proposed amendments to clause 125(2)</u> In reply to the Legal Adviser to the Bills Committee's enquiries, the Administration advised that during the specified transitional arrangement period for premises covered by a certificate of registration under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), the new hospital licence would cover certain associated premises, which included those clinics not physically attached or in close proximity to, or adjoining, the main hospital, that were covered by the certificate of registration so as to constitute one PHF.	
013249 - 013351	Chairman Admin	<u>Proposed new clause 125A</u>	
013352 - 014226	Chairman Admin Dr Helena WONG ALA9	<u>Proposed new clause 136A</u> In respect of the proposed new clause 136A to specify that the requirement on separate entrance should not apply during the validity period of a provisional clinic licence, subject to certain conditions, the Chairman asked about the display of the notice or sign of the clinic concerned. The Administration advised that the notice or sign had to be displayed only at, or in the immediate vicinity of, the direct entrance to the clinic but not the private entrance that was shared with premises that served a purpose that was not reasonably incidental to the clinic. In response to Dr Helena WONG's enquiry on the estimated number of such clinics, the Administration advised that it was difficult to make an estimation at this stage. On Dr Helena WONG's enquiry about whether the licensee of a PHF had to display the current certificate of licence for the facility in a conspicuous place in the facility, the Administration replied in the affirmative. In reply to the enquiry of the Legal Adviser to the Bills Committee, the Administration advised that the requirements set out under the proposed new clause 136A(2) were aimed at ensuring enforceability of the provisions and that the proposed arrangement would not cause misunderstanding to consumers.	
014227 - 014256	Chairman Admin	<u>Proposed amendments to clause 154</u>	

Time marker	Speaker	Subject(s)/Discussion	Action required
014257 - 014651	Chairman Admin ALA9 Dr Helena WONG	<u>Proposed amendments to clause 161</u> At the request of the Legal Adviser to the Bills Committee and Dr Helena WONG, the Administration undertook to review whether the expression "(of 2017)" after "the Private Healthcare Facilities Ordinance" in the English text of the clause should be revised to "(of 2018)".	Admin
014652 - 015056	Chairman Admin Dr Helena WONG Dr Junius HO	<u>Proposed new Schedule 1A</u> In view of members' concern, the Administration suggested to change the expression "teaching university" in the proposed amendments to clauses 2(1), 3, 12(3) and 92(6) and the expression "Teaching Universities" in the proposed new Schedule 1A by the expressions "scheduled university" and "Scheduled Universities" respectively.	Admin
015057 - 015229	Chairman	Way forward	
015230 - 020012	Chairman Dr Junius HO Admin	Dr Junius HO's questions and the Administration's elaboration on the types of PHF subject to regulation and the prohibition that a person could not operate a PHF without a licence; and the existing regulation over illegal practice of medicine.	
<i>Agenda item II: Any other business</i>			
020013 - 020048	Chairman	Closing remarks	

Council Business Division 2
Legislative Council Secretariat
 29 January 2019