

Private Healthcare Facilities Bill

Contents

Clause	Page
Part 1	
Preliminary	
1.	Short title and commencement C1637
2.	Interpretation C1639
3.	Meaning of <i>private healthcare facility</i> C1649
4.	Meaning of <i>hospital</i> C1651
5.	Meaning of <i>day procedure centre</i> C1651
6.	Meaning of <i>clinic</i> C1651
7.	Meaning of <i>health services establishment</i> C1653
8.	Interpretation of premises in relation to private healthcare facility C1653
9.	Meaning of <i>outreach medical services</i> C1655
Part 2	
Prohibition and Display Requirement	
10.	Prohibition on operating facility without licence C1659
11.	Display of licence in facility C1659
12.	Prohibition on performing treatment or procedure causing personal injury C1661

Clause	Page
--------	------

Part 3

Licensing Scheme

Division 1—Issue of Licence

13.	Application for licence	C1665
14.	Applicant	C1667
15.	Director’s decision on medical procedure is final	C1669
16.	Director may inspect premises and require amendment to application etc.	C1669
17.	Issuing or refusing to issue licence	C1671
18.	Grounds for refusing to issue licence	C1671
19.	Validity period of licence	C1675

Division 2—Renewal of Licence

20.	Application for renewal of licence	C1677
21.	Renewing or refusing to renew licence	C1677
22.	Before determination of renewal application	C1679

Division 3—Variation of Licence

23.	Application for variation of scale or scope of services	C1679
24.	Application for variation of class of specialized service	C1681

Division 4—General Provisions about Applications

25.	Requirements for application	C1681
26.	Deemed withdrawal of application	C1683
27.	Notification of grounds for refusal	C1683

Clause	Page
--------	------

Division 5—Suspension or Cancellation of Licence

28.	Suspension or cancellation of licence	C1683
29.	Suspension of facility service	C1683
30.	Notice of intended suspension or cancellation	C1685
31.	Opportunity to make representations	C1685
32.	Failure to comply with suspension order: operating unauthorized type of private healthcare facility	C1687
33.	Failure to comply with suspension order: other grounds	C1687
34.	Failure to comply with suspension order: providing certain facility service	C1689
35.	Cancellation at licensee's request	C1689
36.	Cancellation etc. of licence on death of individual licensee	C1691

Division 6—General Provisions about Licences

37.	Amendment of conditions of licence	C1693
38.	Grounds for action in relation to licence	C1693

Division 7—Right of Appeal

39.	Right of appeal	C1699
40.	Effect of appeal	C1701

Part 4

Exemption of Small Practice Clinics

41.	Meaning of <i>small practice clinic</i>	C1703
-----	---	-------

Clause	Page
42.	Request for letter of exemption C1707
43.	Letter of exemption C1709
44.	Notice of intended change or cessation C1711
45.	Revocation of exemption C1713
46.	Grounds for revoking exemption C1715

Part 5

Management of Private Healthcare Facilities

Division 1—Licensees

47.	General responsibilities of licensees C1719
48.	Duty to provide information or document C1719

Division 2—Chief Medical Executives

49.	Duty to appoint chief medical executive and notify of change C1721
50.	Appointment for group of clinics C1723
51.	General requirements C1723
52.	Additional requirements for hospitals C1723
53.	Additional requirements for day procedure centres or clinics C1725
54.	Additional requirement for combined practices C1727
55.	Responsibilities C1727

Division 3—Medical Advisory Committees

56.	Application of Division 3 C1729
-----	---------------------------------------

Clause	Page
57. Establishment	C1729
58. Function	C1731
59. Implementation of advice	C1733
60. Licensee to provide information	C1733

Division 4—Price Transparency

61. Price information	C1733
62. Budget estimate	C1735
63. Historical statistics on fees and charges	C1735

Division 5—Complaints Management

64. Complaints handling procedure	C1735
65. Complaints under consideration by Complaints Committee	C1737

Division 6—Miscellaneous Operational Matters

66. Distinct and separate premises	C1739
67. Separate entrance	C1739
68. Continuous confinement of patients	C1741
69. Registered medical practitioner resident in hospital	C1741
70. Names or descriptions not be used for certain rooms	C1741

Part 6

Complaints against Private Healthcare Facilities

Division 1—Committee on Complaints against Private Healthcare Facilities

71. Establishment	C1745
-------------------------	-------

Clause	Page
72.	Appointment of secretary and legal adviser C1747
73.	Functions C1747
74.	Meetings C1749
75.	Declaration of interest regarding facility complaint C1751
76.	Transaction of business by circulation of papers C1753
Division 2—Preliminary Processing Panels and Case Panels	
77.	Appointment of preliminary processing panels C1753
78.	Appointment of case panels C1755
79.	Functions of case panel C1757
Division 3—Confidentiality of Information and Protection of Members of Complaints Committee	
80.	Confidentiality of information or document C1757
81.	Protection of members of Complaints Committee C1761
Division 4—Making and Dealing with Complaints	
82.	Making facility complaint C1761
83.	Preliminary processing of facility complaint C1763
84.	Consideration of facility complaint by case panel C1767
85.	Recommendation for alternative dispute resolution C1769
86.	Conclusion of complaints and recommendations of case panel C1769
87.	Complaints Committee's consideration of case panel's recommendations C1771

Clause	Page
--------	------

Division 5—Investigation Powers of Complaints Committee

88.	Obtaining information and document	C1773
89.	Conducting interviews	C1775
90.	Records of interviews	C1777
91.	Obtaining professional opinions	C1777

Part 7

Miscellaneous Offences and Related Provisions

Division 1—Miscellaneous Offences

92.	Prohibited use of titles or descriptions	C1779
93.	Making false or misleading statements or representations.....	C1781

Division 2—Other Matters Relating to Offences

94.	Offences by bodies corporate or members of unincorporated bodies	C1783
95.	Defence	C1785
96.	Compounding of offences	C1787
97.	Time limit for prosecution	C1787

Part 8

Administration, Enforcement and Miscellaneous Provisions

Division 1—Administration

98.	Authorization of public officers	C1789
99.	Advisory Committees	C1789
100.	Fees and allowances to members of committees	C1789

Clause		Page
101.	Secretary may specify category of health services establishment	C1791
102.	Director may issue code of practice	C1791
103.	Director may specify certain medical procedures in code of practice	C1795
104.	Director may give directions	C1795
105.	Director may grant exemptions	C1795
106.	Director may specify forms	C1797
107.	Director to establish and maintain registers	C1797
108.	Issue of duplicate certificate etc.	C1799
109.	Late payment of fees	C1801
110.	Fees paid not refundable	C1801

Division 2—Powers of Enforcement

111.	Interpretation	C1801
112.	Director may require information and documents	C1801
113.	Power of entry to private healthcare facility without warrant	C1805
114.	Power of entry with warrant	C1805
115.	Power of entry in emergencies	C1809
116.	Powers after entry	C1809
117.	Obstructing Director or authorized officer in performing functions	C1811

Clause	Page
--------	------

Division 3—Miscellaneous Provisions

118.	Secretary may require information from licensees	C1813
119.	Confidentiality	C1815
120.	Immunity from civil liability	C1819
121.	Service of notice	C1819
122.	Regulations	C1823
123.	Amendment of Schedules	C1827

Part 9

Transitional Arrangements

Division 1—Interpretation

124.	Interpretation of Part 9	C1829
------	--------------------------------	-------

Division 2—Application for Hospital Licence during Specified Period

125.	Application for licence where hospital already registered	C1831
126.	Hospital licence covering associated premises	C1833

Division 3—Application for Exemption of Nursing Home during Specified Period

127.	Application for exemption where nursing home already registered	C1835
128.	Validity period of exemption	C1839
129.	Revocation of exemption	C1841
130.	Grounds for revoking exemption	C1841

Clause	Page
131. Director to establish and maintain register of exempted nursing homes	C1843
132. Power of entry into exempted nursing homes without warrant	C1843
133. Expiry of Division 3	C1845

Division 4—Application for Day Procedure Centre Licence or Clinic Licence during Specified Period

134. Application for licence where day procedure centre already in operation	C1845
135. Application for licence where clinic already in operation	C1847
136. Validity period of provisional licence	C1851
137. Expiry of Division 4	C1853

Part 10

Amendment to Administrative Appeals Board Ordinance

138. Administrative Appeals Board Ordinance amended	C1855
139. Schedule amended	C1855

Part 11

Amendments to Residential Care Homes (Elderly Persons) Ordinance and its Subsidiary Legislation

Division 1—Amendment to Residential Care Homes (Elderly Persons) Ordinance

140. Residential Care Homes (Elderly Persons) Ordinance amended	C1861
---	-------

Clause	Page
141.	Section 6B added C1861
6B.	Certain nursing homes excepted from application of section 6 C1861

Division 2—Amendments to Residential Care Homes (Elderly Persons)
Regulation

142.	Residential Care Homes (Elderly Persons) Regulation amended C1861
143.	Section 2 amended (interpretation) C1863
144.	Section 3 amended (types of residential care homes) C1863
145.	Section 11 amended (employment of staff by operator) C1865
146.	Schedule 2 amended (minimum area of floor space for each resident) C1867

Part 12
Repeals

Division 1—Repeal of Hospitals, Nursing Homes and Maternity Homes
Registration Ordinance

147.	Hospitals, Nursing Homes and Maternity Homes Registration Ordinance repealed C1869
------	---

Division 2—Repeal of Medical Clinics Ordinance

148.	Medical Clinics Ordinance repealed C1869
------	--

Division 3—Repeal of Medical Clinics (Forms) Regulations

149.	Medical Clinics (Forms) Regulations repealed C1869
------	--

Clause

Page

Part 13

Related Amendments

Division 1—Enactments Amended

150.	Enactments amended	C1871
------	--------------------------	-------

Division 2—Amendment to Employment Ordinance (Cap. 57)

151.	Section 33 amended (sickness allowance)	C1871
------	---	-------

Division 3—Amendment to Inland Revenue Ordinance (Cap. 112)

152.	Section 26D amended (elderly residential care expenses)	C1871
------	---	-------

Division 4—Amendment to Funeral Parlours Regulation (Cap. 132 sub. leg. AD)

153.	Section 3 amended (interpretation)	C1873
------	--	-------

Division 5—Amendments to Dangerous Drugs Ordinance (Cap. 134)

154.	Section 22 amended (statutory authority for certain persons to possess, supply or manufacture dangerous drugs)	C1875
------	--	-------

155.	Sixth Schedule amended	C1877
------	------------------------------	-------

Division 6—Amendments to Antibiotics Ordinance (Cap. 137)

156.	Section 4 amended (control of sale and supply of substances to which this Ordinance applies)	C1877
------	--	-------

157.	Section 5 amended (prohibition of possession of substances to which this Ordinance applies)	C1879
------	---	-------

Division 7—Amendments to Pharmacy and Poisons Ordinance (Cap. 138)

158.	Section 2 amended (interpretation)	C1879
------	--	-------

Clause	Page
159.	Section 28 amended (exemption with regard to medicines) C1881
Division 8—Amendment to Births and Deaths Registration Ordinance (Cap. 174)	
160.	Second Schedule amended (forms) C1883
Division 9—Amendments to Undesirable Medical Advertisements Ordinance (Cap. 231)	
161.	Section 3 amended (prohibition of advertisements relating to certain diseases; exceptions therefrom) C1883
162.	Section 5 amended (certain defences; provision as to Chinese medicine practitioners) C1885
Division 10—Amendment to Child Care Services Ordinance (Cap. 243)	
163.	Section 3 amended (application) C1885
Division 11—Amendments to Massage Establishments Ordinance (Cap. 266)	
164.	Section 3 amended (application of Ordinance) C1887
Division 12—Amendment to Employees’ Compensation Ordinance (Cap. 282)	
165.	Section 3 amended (interpretation) C1887
Division 13—Amendments to Dangerous Goods (General) Regulations (Cap. 295 sub. leg. B)	
166.	Regulation 84 amended (general provisions relating to storage, conveyance and packing of corrosive substances) C1889

Clause	Page
167.	Regulation 92 amended (general provisions relating to packing, conveyance and storage of poisonous substances) C1891
168.	Regulation 99 amended (general provisions relating to packing, conveyance and storage in containers of dangerous goods in category 5) C1893
169.	Regulation 139 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 6) C1893
170.	Regulation 153 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 7) C1895
171.	Regulation 159 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 8) C1897
172.	Regulation 170 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 9) C1899
173.	Regulation 176 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 10) C1901
Division 14—Amendments to Dangerous Goods (Application and Exemption)	
Regulation 2012 (Cap. 295 sub. leg. E)	
174.	Section 2 amended (interpretation) C1903

Clause	Page
Division 15—Amendments to Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. A)	
175.	Schedule 4 amended (exemptions from the Ordinance) C1905
Division 16—Amendments to Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. B)	
176.	Schedule 4 amended (exemptions from the Ordinance) C1907
Division 17—Amendments to Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. H)	
177.	Schedule 5 amended (exemption from the Ordinance) C1911
Division 18—Amendments to Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. J)	
178.	Schedule 4 amended (exemption from the Ordinance) C1915
Division 19—Amendment to Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360)	
179.	Section 2 amended (interpretation) C1919
Division 20—Amendments to Smoking (Public Health) Ordinance (Cap. 371)	
180.	Section 2 amended (interpretation) C1919
181.	Schedule 2 amended (designated no smoking areas and exempt areas) C1921
Division 21—Amendments to Electricity (Wiring) Regulations (Cap. 406 sub. leg. E)	
182.	Regulation 20 amended (periodic inspection, testing and certification) C1921

Clause	Page
--------	------

Division 22—Amendment to Administrative Appeals Board Ordinance (Cap. 442)

183.	Schedule amended	C1923
------	------------------------	-------

Division 23—Amendment to Coroners Ordinance (Cap. 504)

184.	Schedule 1 amended	C1923
------	--------------------------	-------

Division 24—Amendment to Legislative Council Ordinance (Cap. 542)

185.	Section 20I amended (composition of the health services functional constituency)	C1925
------	--	-------

Division 25—Amendment to Chinese Medicine Ordinance (Cap. 549)

186.	Section 170 repealed (interpretation)	C1927
------	---	-------

Division 26—Amendment to Chinese Medicines Regulation (Cap. 549 sub. leg. F)

187.	Section 12 amended (additional duties of holders of wholesaler licences in Chinese herbal medicines in respect of Schedule 1 medicines—selling restrictions)	C1927
------	--	-------

Division 27—Amendments to Human Reproductive Technology Ordinance (Cap. 561)

188.	Section 15A amended (prohibition against publishing or distributing advertisements promoting sex selection services)	C1927
------	--	-------

Division 28—Amendments to Human Reproductive Technology (Licensing) Regulation (Cap. 561 sub. leg. A)

189.	Section 4 amended (classes of premises)	C1929
------	---	-------

Clause	Page
--------	------

**Division 29—Amendment to Drug Dependent Persons Treatment and
Rehabilitation Centres (Licensing) Ordinance (Cap. 566)**

190.	Section 3 amended (application of this Ordinance)	C1931
------	---	-------

**Division 30—Amendments to Prevention and Control of Disease Regulation
(Cap. 599 sub. leg. A)**

191.	Section 35 amended (no infected dead body to be dealt with otherwise)	C1931
------	--	-------

**Division 31—Amendments to Residential Care Homes (Persons with Disabilities)
Ordinance (Cap. 613)**

192.	Section 3 amended (application)	C1933
193.	Section 4 amended (offence of operating residential care homes for PWDs without licence)	C1933
194.	Section 6A added	C1933
6A.	Certain nursing homes excepted from application of section 4	C1933

**Division 32—Amendments to Electronic Health Record Sharing System
Ordinance (Cap. 625)**

195.	Section 19 amended (application by healthcare providers for registration)	C1935
Schedule 1	Premises Excluded from Definition of <i>Hospital</i>	C1936
Schedule 2	Classes of Specialized Services	C1939
Schedule 3	Fees Payable in Relation to Applications for Licences and Other Matters under Ordinance	C1955

Clause	Page
Schedule 4	Premises in which Outreach Medical Services are Provided as Part of Healthcare Services C1965
Schedule 5	Scheduled Clinics C1969
Schedule 6	Healthcare Professionals C1977
Schedule 7	Expressions Not to be Used in Titles or Descriptions of Premises (other than Permitted Facility) C1981
Schedule 8	Health Services Establishment C1987
Schedule 9	Scheduled Nursing Homes C1989

A BILL

To

Provide for the regulation of private healthcare facilities; to repeal the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance and provide for the transfer of nursing homes for elderly persons to be regulated under the Residential Care Homes (Elderly Persons) Ordinance; to repeal the Medical Clinics Ordinance and its subsidiary legislation; and to provide for incidental and related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Private Healthcare Facilities Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance—

authorized officer (獲授權人員) means a public officer authorized by the Director under section 98;

body corporate (法人團體) does not include—

- (a) a corporation incorporated outside Hong Kong; or
- (b) a corporation sole;

case panel (個案小組) means a panel appointed under section 78;

chief medical executive (醫務行政總監) means a person appointed under section 49;

clinic (診所)—see section 6;

code of practice (實務守則) means a code of practice issued under section 102;

company (公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

Complaints Committee (投訴委員會) means the Committee on Complaints against Private Healthcare Facilities established under section 71;

day procedure centre (日間醫療中心)—see section 5;

dental practice (牙科執業) means the professional practice of a registered dentist;

direction (指示) means a direction given under section 104;

Director (署長) means the Director of Health;

exempted clinic (豁免診所) means a small practice clinic for which an exemption under section 43 is in force;

facility complaint (對機構投訴) means a complaint made under section 82;

facility service (機構服務), in relation to a private healthcare facility, means—

- (a) the operation of a section or unit in the facility;
- (b) the provision of a diagnostic or therapeutic procedure in the facility; or
- (c) the provision of the use of any medical equipment in the facility;

function (職能) includes a power and a duty;

health services establishment (衛生服務機構)—see section 7;

healthcare professional (醫護專業人員) means a person specified in Schedule 6;

hospital (醫院)—see section 4;

licence (牌照) means a licence to operate a private healthcare facility—

- (a) issued under section 17; or
- (b) renewed under section 21,

and, except in Part 3, includes a provisional licence;

licensee (持牌人) means a holder of a licence and, except in Part 3, includes a holder of a provisional licence;

Medical Advisory Committee (醫務顧問委員會), in relation to a private healthcare facility, means the committee established under section 57 for the facility;

medical practice (醫科執業) means the professional practice of a registered medical practitioner;

medical service (醫療服務), in relation to a patient, means a medical diagnosis, treatment (other than first aid treatment) or care for the patient given by—

- (a) a registered medical practitioner; or
- (b) a registered dentist;

minor medical procedure (小型醫療程序) means a medical procedure—

- (a) that is not a scheduled medical procedure; and
- (b) that is carried out in an ambulatory setting;

operator (營辦人) means—

- (a) in relation to a private healthcare facility for which a licence is in force—the licensee of the facility; or
- (b) in relation to an exempted clinic—
 - (i) if the clinic is operated by an individual as a sole proprietor—the individual;
 - (ii) if the clinic is operated by a partnership—each partner of the partnership; or
 - (iii) if the clinic is operated by a company—each director of the company;

outreach facility (外展設施) means premises that are not normally used for medical purposes but are temporarily or occasionally used for providing outreach medical services;

outreach medical services (外展醫療服務)—see section 9;

patient (病人) means an individual—

- (a) who is, or may be, suffering from a disease, injury or disability of mind or body;
- (b) to whom healthcare service is provided; or
- (c) on whom a medical procedure is carried out;

permitted facility (獲准機構) means—

- (a) a private healthcare facility for which a licence is in force; or
- (b) an exempted clinic;

practice (執業)—see subsection (2);

preliminary processing panel (初步處理小組) means a panel appointed under section 77;

premises (處所) includes any place and, in particular, includes the following—

- (a) any land or building;
- (b) any vehicle or vessel (other than a sea-going ship as defined in the Merchant Shipping (Seafarers) Ordinance (Cap. 478));
- (c) any part of any land or building or of any vehicle or vessel mentioned in paragraph (a) or (b);

Note—

See also section 8.

private healthcare facility (私營醫療機構)—see section 3;

provisional licence (暫准牌照) means a licence of a provisional nature issued under section 134 or 135;

registered dentist (註冊牙醫) has the meaning given by section 2(1) of the Dentists Registration Ordinance (Cap. 156);

registered medical practitioner (註冊醫生) has the meaning given by section 2(1) of the Medical Registration Ordinance (Cap. 161);

regulations (規例) means regulations made under section 122;

request (要求), in relation to a small practice clinic, means a request made under section 42 for the clinic;

scale (規模), in relation to the services provided in a private healthcare facility, includes—

- (a) the number of beds, and types of beds, provided in the facility; and

- (b) the number of consultation rooms, operating rooms and designated rooms for medical procedures, provided in the facility;

scheduled clinic (附表診所) means a clinic listed in Schedule 5;

scheduled medical procedure (附表醫療程序) means a medical procedure—

- (a) that is described in column 2 of Schedule 2;
- (b) that is not a medical procedure described in column 3 of Schedule 2; and
- (c) that is carried out in an ambulatory setting;

scheduled nursing home (附表護養院) has the meaning given by section 124;

scope (範圍), in relation to the services provided in a private healthcare facility, includes the clinical and clinical supporting services provided in the facility;

Secretary (局長) means the Secretary for Food and Health;

small practice clinic (小型執業診所)—see section 41;

society (社團) means a society, or a branch of a society, registered under section 5A(1), or exempted from registration under section 5A(2), of the Societies Ordinance (Cap. 151);

specified authority (指明當局) means—

- (a) the Government;
- (b) the Hong Kong Garrison;
- (c) the Hospital Authority; or
- (d) the Board of Governors of The Prince Philip Dental Hospital.

- (2) In this Ordinance, a reference to a practice is a reference to—
 - (a) a dental practice; or
 - (b) a medical practice.
- (3) In this Ordinance, a reference to a class of specialized service is a reference to the medical procedures described in column 2 of Schedule 2 corresponding to the class listed in column 1 of that Schedule.
- (4) In this Ordinance, a reference to a person serving a clinic is a reference to the person providing a medical service to a patient at the clinic.
- (5) Provisions in section 3 of the Electronic Health Record Sharing System Ordinance (Cap. 625) defining ***substitute decision maker*** apply in this Ordinance as they apply in that Ordinance, except that a reference to a healthcare recipient in that section is to be read as a reference to a patient.

3. **Meaning of *private healthcare facility***

A private healthcare facility is any of the following facilities that is not managed or controlled by any specified authority—

- (a) a hospital;
- (b) a day procedure centre;
- (c) a clinic;
- (d) a health services establishment,

and does not include premises that are temporarily used for emergency or rescue purposes.

4. Meaning of *hospital*

A hospital is any premises that are used, or intended to be used, for—

- (a) providing medical services to patients, with lodging;
- (b) carrying out medical procedures on patients, with lodging; or
- (c) receiving—
 - (i) a pregnant woman for childbirth; or
 - (ii) a woman immediately after she gives birth to a child,

but does not include the premises specified in Schedule 1.

5. Meaning of *day procedure centre*

A day procedure centre is any premises—

- (a) that do not form part of the premises of a hospital; and
- (b) that are used, or intended to be used, for carrying out scheduled medical procedures on patients, without lodging, whether or not the premises are also used, or intended to be used, for—
 - (i) providing medical services to patients, without lodging; or
 - (ii) carrying out minor medical procedures on patients, without lodging.

Note—

See also section 103.

6. Meaning of *clinic*

A clinic is any premises—

- (a) that do not form part of the premises of a hospital, a day procedure centre or an outreach facility; and
- (b) that are used, or intended to be used, for—
 - (i) providing medical services to patients, without lodging; or
 - (ii) carrying out minor medical procedures on patients, without lodging.

7. Meaning of *health services establishment*

A health services establishment is any premises—

- (a) that fall within a category specified in Schedule 8;
- (b) that do not form part of the premises of a hospital, a day procedure centre or a clinic; and
- (c) that are used, or intended to be used, in relation to—
 - (i) assessing, maintaining or improving the health of patients; or
 - (ii) diagnosing or treating illnesses or disabilities, or suspected illnesses or disabilities, of patients.

8. Interpretation of premises in relation to private healthcare facility

Premises, in relation to a private healthcare facility, comprise the places—

- (a) that are—
 - (i) physically connected by internal access among themselves; or
 - (ii) physically attached or in close proximity to, or adjoining, one another; and
- (b) that form a distinct whole for the facility to function as a single entity.

9. Meaning of *outreach medical services*

(1) An outreach medical service is a medical service—

(a) that is given—

- (i) as part of healthcare services provided in a temporary setting by the Government or the Hospital Authority;
- (ii) as part of healthcare services provided in a temporary setting by a person registered as a medical practitioner with limited or temporary registration under the Medical Registration Ordinance (Cap. 161);
- (iii) in a temporary setting for providing vaccination for disease prevention;
- (iv) in a temporary setting for providing medical services to an individual taking part in, or attending, a sport event;
- (v) as part of healthcare services provided in premises specified in Schedule 4;
- (vi) as part of a medical escort for patient transfer; or
- (vii) to a patient in the patient's home or place of accommodation; and

(b) that does not, except in an emergency, involve—

- (i) a medical procedure that requires a form of sedation or anaesthesia (other than local anaesthesia); or
- (ii) a scheduled medical procedure.

- (2) Also, an outreach medical service is a medical service that—
 - (a) is given in a temporary setting for providing physical examination and medical consultation for health promotion; and
 - (b) does not involve any medical procedure.
 - (3) Also, an outreach medical service is a medical service that is given in a temporary setting as part of healthcare services provided without charge for charitable purposes as approved by the Director.
-

Part 2

Prohibition and Display Requirement

10. Prohibition on operating facility without licence

- (1) A person must not operate a private healthcare facility without a licence.
- (2) Subsection (1) does not apply to a person who operates a small practice clinic without a licence if an exemption given under section 43 for the clinic is in force.
- (3) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) if the facility is a hospital—on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 5 years; or
 - (b) if the facility is not a hospital—on conviction on indictment to a fine at level 6 and to imprisonment for 3 years.

11. Display of licence in facility

- (1) The licensee of a private healthcare facility must display the current certificate of licence for the facility in a conspicuous place in the facility.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) if the facility is a hospital—on summary conviction to a fine at level 6; or
 - (b) if the facility is not a hospital—on summary conviction to a fine at level 4.

12. Prohibition on performing treatment or procedure causing personal injury

- (1) A person who is not a healthcare professional must not on any premises (other than an excepted premises)—
 - (a) purportedly perform a medical treatment or medical procedure for another person who is, or may be, suffering from a disease, injury or disability of mind or body; and
 - (b) cause personal injury to the other person during the treatment or procedure.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on summary conviction—to a fine of \$200,000 and to imprisonment for 3 years; or
 - (b) on conviction on indictment—to imprisonment for 7 years.
- (3) In this section—

excepted premises (例外處所) means any of the following—

- (a) a permitted facility;
- (b) any premises specified in Schedule 1;
- (c) any premises exempted under section 127;
- (d) any premises managed or controlled by a specified authority;
- (e) any premises that are temporarily used for emergency or rescue purposes;

medical treatment (醫學治療), in relation to an individual, means a treatment (including any diagnosis and prescription for giving the treatment) of any description performed on the individual for treating of disease, injury or disability of mind or body other than the following—

- (a) dispensation of medicine or poison by a pharmacist registered under the Pharmacy and Poisons Ordinance (Cap. 138);
 - (b) dispensation of poison by a seller of poisons listed under the Pharmacy and Poisons Ordinance (Cap. 138);
 - (c) dispensation of Chinese herbal medicines under the Chinese Medicine Ordinance (Cap. 549);
 - (d) treatment given by a Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance (Cap. 549);
 - (e) treatment given in the practice of a profession listed in the Schedule to the Supplementary Medical Professions Ordinance (Cap. 359) by a person registered or licensed under that Ordinance to practise that profession;
 - (f) treatment given by a chiropractor registered under the Chiropractors Registration Ordinance (Cap. 428);
 - (g) treatment given without payment by a family member or personal friend because of the family or personal relationship;
 - (h) treatment given by way of first aid.
-

Part 3

Licensing Scheme

Division 1—Issue of Licence

13. Application for licence

- (1) Subject to section 14, a person may apply to the Director for a licence to operate a private healthcare facility.
- (2) The application must state which of the following types of private healthcare facility the licence is applied for—
 - (a) a hospital;
 - (b) a day procedure centre;
 - (c) a clinic;
 - (d) a health services establishment.
- (3) The application must also state—
 - (a) for a hospital—the scale and scope of the services that are intended to be provided in the hospital;
 - (b) for a day procedure centre—
 - (i) the practice that is intended to be carried on in the centre;
 - (ii) the class of specialized service that is intended to be provided in the centre; and
 - (iii) the scale and scope of the services that are intended to be provided in the centre;
 - (c) for a clinic—
 - (i) the practice that is intended to be carried on in the clinic;

- (ii) the scale and scope of the services that are intended to be provided in the clinic; and
- (iii) whether it is a scheduled clinic; or
- (d) for a health services establishment—
 - (i) a category specified in Schedule 8 to which the establishment belongs; and
 - (ii) the scale and scope of the services that are intended to be provided in the establishment.

14. Applicant

- (1) For an application for a licence to be issued for a hospital—
 - (a) the applicant must be a company, or other body corporate, operated by a board of directors (however described); and
 - (b) the board of directors must include a person—
 - (i) who is neither a registered medical practitioner nor a registered dentist; and
 - (ii) who is not an employee of the hospital.
- (2) For an application for a licence to be issued for a clinic that is a scheduled clinic, the applicant must be—
 - (a) a person who was registered under section 5(2) of the Medical Clinics Ordinance (Cap. 343) immediately before its repeal in respect of the scheduled clinic; or
 - (b) a registered medical practitioner—
 - (i) who is currently practising in the scheduled clinic; and

- (ii) whose name is not included in Part I of the General Register kept under section 6(1) of the Medical Registration Ordinance (Cap. 161) as at 1 April 2017.
- (3) Any of the following persons that operates or has control over a private healthcare facility (other than a hospital or a clinic that is a scheduled clinic), or that intends to operate or have control over such a private healthcare facility, may apply for a licence for the facility—
 - (a) an individual;
 - (b) a partnership;
 - (c) a company;
 - (d) a body corporate other than a company;
 - (e) a society.

15. Director's decision on medical procedure is final

In processing an application made under section 13, the Director may decide whether a procedure is a medical procedure under column 2 or 3 of Schedule 2, and the Director's decision is final for the purposes of the application.

16. Director may inspect premises and require amendment to application etc.

Before deciding an application made under section 13, the Director may—

- (a) after giving the applicant prior notice (either verbally or in writing), inspect the premises of the private healthcare facility to which the application relates; and

- (b) require the applicant to make any amendment to the application, or alteration or improvement to the premises, the Director considers necessary.

17. Issuing or refusing to issue licence

- (1) On receiving an application made under section 13 in relation to a private healthcare facility, the Director may—
 - (a) issue a licence; or
 - (b) refuse to issue a licence but only on a ground specified in section 18.
- (2) When issuing a licence for the facility, the Director may specify the following in the licence, as appropriate—
 - (a) the practice that may be carried on in the facility;
 - (b) the class of specialized service that may be provided in the facility;
 - (c) the category of health services establishment to which the facility belongs;
 - (d) the scale and scope of the services that may be provided in the facility.
- (3) A licence may be issued subject to the conditions that the Director considers appropriate.

18. Grounds for refusing to issue licence

- (1) The following grounds are specified for the purpose of refusing to issue a licence under section 17(1)(b) for a private healthcare facility—
 - (a) the Director is not satisfied that the applicant is a fit and proper person to operate or exercise control over the facility;

- (b) the Director is not satisfied that the person whom the applicant states is to be appointed as the chief medical executive for the facility is a fit and proper person to administer the facility;
 - (c) the Director is not satisfied that the applicant has the ability to operate or exercise control over the facility in compliance with this Ordinance and the code of practice;
 - (d) the Director is not satisfied that the premises (including the fittings and equipment in the premises) forming the facility are suitable to be used as the type of facility under application;
 - (e) the Director is not satisfied that the applicant has suitable arrangements in place regarding the management and staffing of the facility;
 - (f) the Director is not satisfied that the applicant has suitable arrangements in place to monitor and maintain the safety and quality of healthcare services to be provided in the facility;
 - (g) the Director is satisfied that the operation of the facility by the applicant would be contrary to the public interest;
 - (h) another ground the Director considers appropriate.
- (2) For the purposes of subsection (1)(a)—
- (a) if the applicant is an individual—the reference to the applicant is a reference to the individual;
 - (b) if the applicant is a partnership—the reference to the applicant is a reference to any of the partners of the partnership;

- (c) if the applicant is a company—the reference to the applicant is a reference to any of the directors of the company;
- (d) if the applicant is a body corporate other than a company—the reference to the applicant is a reference to—
 - (i) any of the directors of the body; and
 - (ii) any of the members or officers of the body concerned in the management of the body; and
- (e) if the applicant is a society—the reference to the applicant is a reference to any of the office bearers of the society.

19. Validity period of licence

- (1) A licence for a hospital is valid for a period of not more than 2 years as specified in the licence, which is to begin on the date specified in the licence for that purpose.
- (2) A licence for a day procedure centre is valid for a period of not more than 3 years as specified in the licence, which is to begin on the date specified in the licence for that purpose.
- (3) A licence for a clinic (other than a scheduled clinic) is valid for a period of not more than 5 years as specified in the licence, which is to begin on the date specified in the licence for that purpose.
- (4) A licence for a clinic that is a scheduled clinic is valid for a period of not more than 1 year as specified in the licence, which is to begin on the date specified in the licence for that purpose.

- (5) A licence for a health services establishment is valid for the period specified in the licence, which is to begin on the date specified in the licence for that purpose.

Division 2—Renewal of Licence

20. Application for renewal of licence

- (1) The licensee of a private healthcare facility may apply to the Director for renewal of the licence.
- (2) The application must be made—
 - (a) within the period before the expiry of the licence specified by the Director in writing; or
 - (b) if the Director does not specify a period in writing—
not less than 6 months before the expiry of the licence.

21. Renewing or refusing to renew licence

- (1) Subject to subsection (2), the Director must renew the licence on receiving an application made under section 20.
- (2) The Director may refuse to renew the licence but only on a ground specified in section 38.
- (3) On renewing a licence, the Director may impose any condition in addition to, or instead of, any condition previously imposed on the licence.
- (4) The renewal of a licence takes effect on the day immediately following the day on which the licence would have expired but for the renewal.
- (5) A renewed licence for a private healthcare facility is valid for a period specified in the licence with the maximum period being the maximum period mentioned in section 19 for the facility.

22. Before determination of renewal application

- (1) This section applies if—
 - (a) an application for the renewal for a licence is made under section 20; and
 - (b) but for this section, the licence would expire before the application is determined.
- (2) The licence remains in effect pending the determination unless, before the determination—
 - (a) the application is withdrawn; or
 - (b) the licence is cancelled under section 28.

Division 3—Variation of Licence

23. Application for variation of scale or scope of services

- (1) The licensee of a private healthcare facility may apply to the Director to vary the scale or scope of services specified in the licence.
- (2) On receiving the application, the Director must decide whether to approve or refuse it.
- (3) The application may be approved subject to the conditions that the Director considers appropriate.
- (4) The Director must refuse the application if the Director considers that it is not appropriate to approve the application.
- (5) Without limiting subsection (4), the Director may refuse the application on a ground specified in section 38.
- (6) A variation under this section has effect for the remainder of the period for which the licence remains in effect.

24. Application for variation of class of specialized service

- (1) The licensee of a day procedure centre may apply to the Director to vary the class of specialized service specified in the licence.
- (2) On receiving the application, the Director must decide whether to approve or refuse it.
- (3) The application may be approved subject to the conditions that the Director considers appropriate.
- (4) The Director must refuse the application if the Director considers that it is not appropriate to approve the application.
- (5) Without limiting subsection (4), the Director may refuse the application on a ground specified in section 38.
- (6) A variation under this section has effect for the remainder of the period for which the licence remains in effect.

Division 4—General Provisions about Applications

25. Requirements for application

- (1) This section applies to an application made under this Part.
- (2) The application—
 - (a) must be made in the form and way specified by the Director;
 - (b) must be accompanied by the information and documents specified by the Director; and
 - (c) must be accompanied by the appropriate fee specified in Schedule 3.

26. Deemed withdrawal of application

- (1) This section applies to an application made under this Part in relation to which the Director has specified a period within which the applicant must provide certain information or documents in support of the application to the Director.
- (2) The application is taken to have been withdrawn if the applicant fails to provide the information or documents within the specified period.

27. Notification of grounds for refusal

- (1) This section applies to an application made under this Part.
- (2) If the Director refuses the application, the Director must notify the applicant in writing of the grounds for the refusal.

Division 5—Suspension or Cancellation of Licence**28. Suspension or cancellation of licence**

- (1) The Director may by order—
 - (a) suspend a licence for a private healthcare facility for a period the Director considers appropriate; or
 - (b) cancel a licence for a private healthcare facility.
- (2) A licence may be suspended or cancelled only on a ground specified in section 38.

29. Suspension of facility service

- (1) The Director may by order suspend a facility service in a private healthcare facility for a period the Director considers appropriate.

- (2) A facility service may be suspended only on a ground specified in section 38(1).

30. Notice of intended suspension or cancellation

- (1) Before—
 - (a) suspending or cancelling a licence for a private healthcare facility under section 28; or
 - (b) suspending a facility service under section 29, the Director must give the licensee of the facility not less than 14 days' notice in writing of the intention to do so.
- (2) The ground for the intended suspension or cancellation must be set out in the notice.
- (3) However, notice is not required if the Director considers that it is in the public interest to immediately suspend the licence or service.
- (4) Also, notice is not required if the Director is satisfied that the facility or service to which the licence relates has ceased to exist or be operated.

31. Opportunity to make representations

- (1) Subject to subsection (3), the Director must not suspend or cancel a licence under section 28, or suspend a facility service under section 29, without—
 - (a) first giving the licensee an opportunity to make representations to object to the suspension or cancellation; and
 - (b) considering the representations (if any).
- (2) Any representations must be made—

- (a) within 10 days after the date of the notice given to the licensee under section 30 (or a longer period the Director allows); and
- (b) in the way specified in the notice.
- (3) This section does not apply if notice is not required under section 30(3) or (4).

32. Failure to comply with suspension order: operating unauthorized type of private healthcare facility

- (1) A licensee of a private healthcare facility commits an offence if the licensee fails to comply with an order made under section 28(1)(a) suspending a licence for the facility on the ground specified in section 38(2)(d).
- (2) A person who commits an offence under subsection (1) is liable—
 - (a) if the facility is operated as a hospital—on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 5 years; or
 - (b) if the facility is operated as a facility that is not a hospital—on conviction on indictment to a fine at level 6 and to imprisonment for 3 years.

33. Failure to comply with suspension order: other grounds

- (1) A licensee of a private healthcare facility commits an offence if the licensee fails to comply with an order made under section 28(1)(a) suspending the licence for the facility on a ground specified in section 38 (other than that specified in section 38(2)(d)).
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine at level 6 and to imprisonment for 3 months.

34. Failure to comply with suspension order: providing certain facility service

- (1) A licensee of a private healthcare facility commits an offence if the licensee fails to comply with an order made under section 29(1) suspending a facility service in the facility.
- (2) A person who commits an offence under subsection (1) is liable—
 - (a) if the facility is a hospital—on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) if the facility is not a hospital—on summary conviction to a fine at level 6 and to imprisonment for 3 months.

35. Cancellation at licensee's request

- (1) If the licensee of a private healthcare facility intends to cease operating the facility before the licence expires, the licensee must make a request in writing to the Director to cancel the licence.
- (2) For the purposes of subsection (1)—
 - (a) if the facility is a hospital—the request must be made not less than 3 months before the intended date of cessation of operation; or
 - (b) if the facility is not a hospital—the request must be made not less than 6 weeks before the intended date of cessation of operation.
- (3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable—

- (a) if the facility is a hospital—on summary conviction to a fine at level 6 and to imprisonment for 1 year; or
 - (b) if the facility is not a hospital—on summary conviction to a fine at level 4 and to imprisonment for 3 months.
- (4) Without limiting section 28(1), the Director may, on receiving the request—
 - (a) cancel the licence from the day after the intended date of cessation of operation; and
 - (b) impose on the licensee a requirement for the cancellation that the Director considers appropriate.
- (5) A person commits an offence if the person, without reasonable excuse, contravenes a requirement imposed on the person under subsection (4)(b) and is liable—
 - (a) if the facility is a hospital—on summary conviction to a fine at level 6 and to imprisonment for 1 year; or
 - (b) if the facility is not a hospital—on summary conviction to a fine at level 4 and to imprisonment for 3 months.

36. Cancellation etc. of licence on death of individual licensee

- (1) This section applies to a licence for a private healthcare facility that is a day procedure centre, clinic or health services establishment if the licensee is an individual.
- (2) Without limiting section 28(1), the Director may by order cancel the licence on the death of the licensee.
- (3) Alternatively, the Director may, if satisfied that the conditions specified in subsection (4) are met, defer the cancellation of the licence until the expiry of 6 weeks after the date of death of the licensee.

- (4) The conditions are that—
 - (a) the personal representative of the deceased licensee has made a request in writing to the Director asking for the deferment;
 - (b) the personal representative has appointed a registered medical practitioner or a registered dentist (as the case requires) to administer the facility; and
 - (c) the personal representative has undertaken to assume the full responsibilities of the deceased licensee in operating the facility.

Division 6—General Provisions about Licences

37. Amendment of conditions of licence

- (1) The Director may amend the conditions of a licence for a private healthcare facility on a ground specified in section 38(1).
- (2) Before making an amendment, the Director must give the licensee not less than 14 days' notice in writing of the intended amendment.
- (3) The ground for the intended amendment must be set out in the notice.

38. Grounds for action in relation to licence

- (1) The following grounds are specified for the purposes of sections 21(2), 23(5), 24(5), 28(2), 29(2) and 37(1) in relation to a private healthcare facility—
 - (a) the licensee or chief medical executive of the facility contravenes or has contravened—
 - (i) this Ordinance;
 - (ii) a condition of the licence;

- (iii) a code of practice; or
 - (iv) a direction;
 - (b) the Director is satisfied that the practice carried on in the facility is a practice other than that specified in the licence;
 - (c) the Director is satisfied that a medical procedure belonging to a class of specialized service other than that specified in the licence is, or has been, provided in the facility;
 - (d) the Director is satisfied that the facility is, or has been, used in a way not serving a purpose reasonably incidental to—
 - (i) the type of facility for which the licence is issued; or
 - (ii) the practice or class of specialized service specified in the licence;
 - (e) the Director considers that the facility is being, or has been, operated in a way contrary to the public interest.
- (2) The following additional grounds are specified for the purposes of sections 21(2), 23(5), 24(5) and 28(2) in relation to a private healthcare facility—
- (a) the licensee or chief medical executive of the facility has been convicted of an offence under this Ordinance;
 - (b) the licensee of the facility—
 - (i) if an individual—has become bankrupt or made a voluntary arrangement with the individual's creditors within the meaning of the Bankruptcy Ordinance (Cap. 6);

- (ii) if a partnership—has been dissolved;
 - (iii) if a company—has commenced to be wound up or dissolved;
 - (iv) if a body corporate other than a company—has ceased to exist or carry on any business; or
 - (v) if a society—has ceased to exist;
 - (c) the licensee or chief medical executive of the facility has made a false statement—
 - (i) in an application made under this Part; or
 - (ii) in any report, information or document required by the Director under this Ordinance;
 - (d) the Director is satisfied that the licensee of the facility is operating a type of facility other than that for which the licence is issued;
 - (e) the Director is satisfied that the licensee of the facility has ceased to operate or have control over the facility;
 - (f) the Director is satisfied that the facility has ceased to exist or be operated.
- (3) For the purposes of subsection (2)(a)—
- (a) if the licensee is an individual—the reference to the licensee is a reference to the individual;
 - (b) if the licensee is a partnership—the reference to the licensee is a reference to any of the partners of the partnership;
 - (c) if the licensee is a company—the reference to the licensee is a reference to any of the directors of the company;

- (d) if the licensee is a body corporate other than a company—the reference to the licensee is a reference to—
 - (i) any of the directors of the body; and
 - (ii) any of the members or officers of the body concerned in the management of the body; and
- (e) if the licensee is a society—the reference to the licensee is a reference to any of the office bearers of the society.

Division 7—Right of Appeal

39. Right of appeal

- (1) This section applies to a decision—
 - (a) to refuse to issue a licence under section 17(1)(b);
 - (b) to issue a licence subject to particular conditions under section 17(3);
 - (c) to refuse to renew a licence under section 21(2);
 - (d) to impose particular conditions on renewing a licence under section 21(3);
 - (e) to approve an application for variation of the scale or scope of services subject to particular conditions under section 23(3);
 - (f) to refuse an application for variation of the scale or scope of services under section 23(4) or (5);
 - (g) to approve an application for variation of the class of specialized service subject to particular conditions under section 24(3);
 - (h) to refuse an application for variation of the class of specialized service under section 24(4) or (5);

- (i) to suspend or cancel a licence under section 28(1);
 - (j) to suspend a facility service under section 29(1); or
 - (k) to amend the conditions of a licence under section 37(1).
- (2) An applicant or licensee of a private healthcare facility who is aggrieved by the decision may appeal to the Administrative Appeals Board.
- (3) An appeal may only be made within 14 days after the aggrieved person receives notice of the decision.

40. Effect of appeal

- (1) If an appeal is made under section 39, the decision appealed against is suspended as from the day on which the appeal is made until the appeal is determined, abandoned or withdrawn, unless the notice of the decision states that the decision cannot be suspended.
 - (2) Otherwise, the suspension only stops when the Director gives the Administrative Appeals Board a notice in writing that the Director is of the opinion that suspending the effect of the decision is contrary to the public interest.
-

Part 4

Exemption of Small Practice Clinics

41. Meaning of *small practice clinic*

- (1) A clinic is a small practice clinic if—
 - (a) an individual who is a registered medical practitioner or a registered dentist operates the clinic as a sole proprietor;
 - (b) the individual is the only registered medical practitioner or registered dentist who serves the clinic; and
 - (c) the individual has the exclusive right to use the premises forming the clinic.
- (2) A clinic is also a small practice clinic if—
 - (a) a partnership having not more than 5 partners, each of whom is a registered medical practitioner or a registered dentist, operates the clinic;
 - (b) the partners are the only registered medical practitioners or registered dentists who serve the clinic; and
 - (c) one or more of the partners have the exclusive right to use the premises forming the clinic.
- (3) A clinic is also a small practice clinic if—
 - (a) a company having not more than 5 directors, each of whom is a registered medical practitioner or a registered dentist, operates the clinic;

- (b) the directors are the only registered medical practitioners or registered dentists who serve the clinic; and
 - (c) either the company has, or one or more of the directors have, the exclusive right to use the premises forming the clinic.
- (4) For a clinic operated by an individual as a sole proprietor, the condition in subsection (1)(b) is satisfied if—
 - (a) where the individual is a registered medical practitioner—the total number of days for which another registered medical practitioner takes up the duties of the individual in the clinic because of the individual's absence from the clinic does not exceed 60 days in a calendar year; or
 - (b) where the individual is a registered dentist—the total number of days for which another registered dentist takes up the duties of the individual in the clinic because of the individual's absence from the clinic does not exceed 60 days in a calendar year.
- (5) For a clinic operated by a partnership or company, the condition in subsection (2)(b) or (3)(b) is satisfied if—
 - (a) where the partners or directors or any of them are registered medical practitioners, then, for each of the registered medical practitioners (*that person*)—subject to subsection (6), the total number of days for which another registered medical practitioner takes up the duties of that person in the clinic because of that person's absence from the clinic does not exceed 60 days in a calendar year; or

- (b) where the partners or directors or any of them are registered dentists, then, for each of the registered dentists (*that person*)—subject to subsection (6), the total number of days for which another registered dentist takes up the duties of that person in the clinic because of that person's absence from the clinic does not exceed 60 days in a calendar year.
- (6) The aggregate number of days for the taking up of duties by other registered medical practitioners or registered dentists for the partners or directors operating the clinic must not exceed 180 days in a calendar year.
- (7) In this section, a reference to a registered medical practitioner is a reference to a person whose name is included in Part I of the General Register kept under section 6(1) of the Medical Registration Ordinance (Cap. 161).

42. Request for letter of exemption

- (1) A person that operates, or intends to operate, a small practice clinic may ask the Director for a letter of exemption for the clinic.
- (2) The request—
 - (a) must be made in the form and way specified by the Director;
 - (b) must be accompanied by the information and documents specified by the Director;
 - (c) must state the practice carried on, or to be carried on, in the clinic;
 - (d) if the person that operates, or intends to operate, the clinic is an individual as a sole proprietor—must be signed by the individual;

- (e) if the person that operates, or intends to operate, the clinic is a partnership—must be signed by each of the partners of the partnership; and
- (f) if the person that operates, or intends to operate, the clinic is a company—must be signed by each of the directors of the company.

43. Letter of exemption

- (1) On receiving a request under section 42 from a person for a clinic with a stated practice, the Director may issue to the person a letter of exemption for the clinic if the Director is satisfied that—
 - (a) the clinic is a small practice clinic; and
 - (b) none of the individuals signing the request is for the time being in any of the following capacities (in whatever combination) for 3 or more other exempted clinics—
 - (i) the sole proprietor of an exempted clinic;
 - (ii) a partner of a partnership operating an exempted clinic;
 - (iii) a director of a company operating an exempted clinic.
- (2) A letter of exemption issued to a person—
 - (a) must specify the clinic and practice stated in the request; and
 - (b) permits the person to operate without a licence the clinic in which the practice is carried on (*exemption*).
- (3) The exemption is in force unless revoked under section 45.

- (4) The Director must refuse to issue a letter of exemption if the Director considers it inappropriate for the person making the request to carry on the practice in the clinic without a licence.
- (5) If the Director refuses to issue a letter of exemption, the Director must, in writing, inform the person making the request of the refusal and the reasons for the refusal.

44. Notice of intended change or cessation

- (1) The operator of an exempted clinic must give the Director not less than 14 days' notice in writing of—
 - (a) any intended change of the clinic's operators;
 - (b) any intended change of the clinic's address;
 - (c) any intended cessation of the clinic's operation; or
 - (d) any intended cessation of the clinic's operating as a small practice clinic.
- (2) Despite subsection (1)(a), if the change occurs because of the death or deregistration of an operator, the notice may be given within 14 days after the date of the operator's death or deregistration.
- (3) A person who, without reasonable excuse, contravenes subsection (1)(a), (b) or (c) or (2) commits an offence and is liable on summary conviction to a fine at level 4.
- (4) A person who, without reasonable excuse, contravenes subsection (1)(d) commits an offence and is liable on summary conviction to a fine at level 4 and to imprisonment for 3 months.
- (5) A notice under subsection (1)—
 - (a) must be made in the form and way specified by the Director; and

- (b) must be accompanied by the information and documents specified by the Director.
- (6) Despite any change of operators notified under subsection (1)(a)—
 - (a) the exemption for the exempted clinic under section 43 continues to be in force (unless revoked under section 45); and
 - (b) the operators for the time being of the clinic may carry on the practice stated in the relevant letter of exemption in the clinic without a licence.
- (7) In this section—

deregistration (撤銷註冊) means—

- (a) in relation to an operator who is a registered medical practitioner—the removal of the name of the operator as a registered medical practitioner under section 19(1), 21(1) or 21A(1) of the Medical Registration Ordinance (Cap. 161) from the General Register kept under section 6(1) of that Ordinance; and
- (b) in relation to an operator who is a registered dentist—the removal of the name of the operator as a registered dentist under section 15(3) or 18(1) of the Dentists Registration Ordinance (Cap. 156) from the General Register kept under section 7(1) of that Ordinance.

45. Revocation of exemption

- (1) The Director may, by notice in writing to the operator of an exempted clinic, revoke the exemption.
- (2) The exemption may be revoked only on a ground specified in section 46.

- (3) Before revoking the exemption, the Director must give the operator not less than 14 days' notice in writing of the intended revocation and the ground for the intended revocation.

46. Grounds for revoking exemption

The grounds for revoking an exemption for a small practice clinic under section 45 are as follows—

- (a) an operator of the clinic contravenes or has contravened this Ordinance;
- (b) an operator of the clinic has been convicted of an offence under this Ordinance;
- (c) for a clinic operated—
 - (i) by an individual as a sole proprietor—the individual has become bankrupt or made a voluntary arrangement with the individual's creditors within the meaning of the Bankruptcy Ordinance (Cap. 6);
 - (ii) by a partnership—the partnership has been dissolved;
 - (iii) by a company—the company has commenced to be wound up or dissolved;
- (d) the person making the request under section 42 in relation to the clinic has made a false statement in the request, or in any information or document required by the Director under this Ordinance;
- (e) the Director is satisfied that the clinic has ceased to exist or be operated;
- (f) the Director is satisfied that the clinic has ceased to be operated as a small practice clinic;

- (g) the Director considers that the clinic has been operated in a way contrary to the public interest;
 - (h) the Director considers for another reason that it would be inappropriate for the exemption to continue to be in force.
-

Part 5

Management of Private Healthcare Facilities

Division 1—Licensees

47. General responsibilities of licensees

- (1) The licensee of a private healthcare facility is wholly responsible for the operation of the facility.
- (2) The licensee is responsible, in particular, for the following—
 - (a) ensuring the facility’s compliance with—
 - (i) a condition of the licence;
 - (ii) a code of practice; and
 - (iii) a direction;
 - (b) setting up and enforcing rules, policies and procedures—
 - (i) relating to the quality of care for, and the safety of, patients in the facility; and
 - (ii) for the operation of the facility.

48. Duty to provide information or document

The licensee of a private healthcare facility must, on request, provide to the Director any information or document—

- (a) that relates to the operation of the facility; and
- (b) that the Director considers necessary for performing the Director’s functions under this Ordinance.

Division 2—Chief Medical Executives

49. Duty to appoint chief medical executive and notify of change

- (1) The licensee of a private healthcare facility must appoint a person to take charge of the day to day administration of the facility (*chief medical executive*).
- (2) A chief medical executive must satisfy all the applicable requirements under sections 51, 52 and 53.
- (3) Also, a person is ineligible for appointment as chief medical executive if the person has been convicted of an offence under this Ordinance for which the person has been sentenced to imprisonment (whether suspended or not) for a term exceeding 3 months without the option of a fine.
- (4) If there is a change of the chief medical executive, the licensee must, before the expiry of 14 days after the change has occurred, notify the Director in writing of—
 - (a) the change; and
 - (b) the qualifications, training and experience of the chief medical executive appointed, or to be appointed, in replacement.
- (5) A person who contravenes subsection (1) or (4) commits an offence and is liable—
 - (a) if the facility is a hospital—on summary conviction to a fine at level 6 and, in the case of a continuing offence, to a further fine of \$10,000 for each day during which the offence continues; or
 - (b) if the facility is not a hospital—on summary conviction to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

50. Appointment for group of clinics

For the purposes of section 49(1), if 3 or more clinics are operated at the same time by the same licensee, the licensee may appoint a single chief medical executive for the clinics if the licensee—

- (a) has established a Medical Advisory Committee for the clinics; and
- (b) has appointed for each of the clinics a registered medical practitioner, or a registered dentist, who is serving the clinic to assist the chief medical executive in carrying out the day to day administration of the clinic.

51. General requirements

The chief medical executive of a private healthcare facility must—

- (a) possess the qualifications and experience necessary for administering a facility of that type;
- (b) be physically and mentally fit to administer a facility of that type; and
- (c) be a person of integrity and good character.

52. Additional requirements for hospitals

- (1) The chief medical executive of a hospital must be a registered medical practitioner who has been registered for not less than 15 years in Hong Kong.
- (2) The chief medical executive of a hospital must not serve at the same time as a chief medical executive of another private healthcare facility.

53. Additional requirements for day procedure centres or clinics

- (1) The chief medical executive of a day procedure centre must be a registered medical practitioner or a registered dentist who has been registered for not less than 6 years in Hong Kong.
- (2) The chief medical executive of a clinic must be a registered medical practitioner or a registered dentist who has been registered for not less than 4 years in Hong Kong.
- (3) If the practice specified in the licence for a day procedure centre or clinic is—
 - (a) a dental practice only—the chief medical executive for the centre or clinic must be a registered dentist; and
 - (b) in any other case—the chief medical executive for the centre or clinic must be a registered medical practitioner.
- (4) A person must not serve at the same time as the chief medical executive of more than 2 day procedure centres or clinics.
- (5) However, a person may serve as a chief medical executive of 3 or more clinics if the person—
 - (a) is appointed under section 50;
 - (b) is a registered medical practitioner or a registered dentist who has been registered for not less than 10 years in Hong Kong; and
 - (c) does not serve at the same time as a chief medical executive of another private healthcare facility.

54. Additional requirement for combined practices

If both a medical practice and dental practice are specified in the licence for a private healthcare facility, the licensee of the facility must also appoint a registered dentist to assist the chief medical executive in carrying out the day to day administration of the dental practice.

55. Responsibilities

- (1) The chief medical executive of a private healthcare facility is, at all times when the facility is in operation, responsible for—
 - (a) the day to day administration of the facility; and
 - (b) the adoption and implementation of rules, policies and procedures concerning healthcare services provided in the facility.
- (2) Without limiting subsection (1), the chief medical executive must—
 - (a) ensure—
 - (i) that every healthcare professional working in the facility has a valid practising certificate, or an enrolment that is still in force, for the professional capacity concerned; and
 - (ii) that every person giving healthcare services in the facility has the requisite qualifications, training and experience relevant to the healthcare services that the person provides;
 - (b) keep and maintain the following types of registers in the form and way specified by the Director—
 - (i) a staff register;
 - (ii) a patients attendance register;

- (iii) a hospital admission register (if appropriate);
- (iv) any other register that the Director requires;
- (c) supply to the Director any information or document that the Director considers necessary for performing the Director's functions under this Ordinance; and
- (d) perform any other duty—
 - (i) prescribed by the regulations; or
 - (ii) specified in a code of practice.

Division 3—Medical Advisory Committees

56. Application of Division 3

- (1) This Division applies to a private healthcare facility that is a hospital.
- (2) Also, 3 or more clinics operated at the same time by the same licensee that has appointed, or that seeks to appoint, a single chief medical executive for the clinics under section 50 are collectively regarded as 1 private healthcare facility to which this Division applies.

57. Establishment

- (1) The licensee of a private healthcare facility must establish and keep in operation a committee known as the Medical Advisory Committee for the facility.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine at level 6 and, in the case of a continuing offence, to a further fine of \$10,000 for each day during which the offence continues.
- (3) A Medical Advisory Committee is to consist of the following members appointed by the licensee—

- (a) a chairperson; and
 - (b) a number of other members decided by the licensee.
- (4) At least half of the members of the Medical Advisory Committee must be registered medical practitioners or registered dentists, including at least 1 registered medical practitioner who is not employed by, or practising in, the facility.
- (5) The chairperson of the Medical Advisory Committee must be—
- (a) if the practice specified in the licence for the facility is a dental practice only—a registered dentist; and
 - (b) in any other case—a registered medical practitioner.
- (6) The Medical Advisory Committee may determine its own procedure.

58. Function

The function of the Medical Advisory Committee of a private healthcare facility is to advise the licensee of the facility on the following—

- (a) the qualifications of healthcare professionals for providing services in the facility and delineation of their clinical responsibilities;
- (b) all matters concerning medical diagnosis, treatment and care given, or to be given, in the facility;
- (c) all matters concerning the quality of care for, and the safety of, patients in the facility.

59. Implementation of advice

- (1) Both the licensee and the chief medical executive of a private healthcare facility are responsible for ensuring that the advice given by the Medical Advisory Committee of the facility is properly implemented.
- (2) Without limiting subsection (1), the licensee and the chief medical executive are each primarily responsible for implementing the Medical Advisory Committee's advice on matters that fall within their respective areas of responsibility.

60. Licensee to provide information

The licensee of a private healthcare facility must—

- (a) on request, report to the Director on any activity or advice of the Medical Advisory Committee of the facility; and
- (b) provide in writing to the Director a list of the members of the Medical Advisory Committee.

Division 4—Price Transparency

61. Price information

- (1) The licensee of a private healthcare facility must make available to the public information about the prices of chargeable items and services provided in the facility as specified by the Director.
- (2) The licensee must ensure that the information is provided to the public in the way specified by the Director.

62. Budget estimate

- (1) The licensee of a hospital must 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.
- (2) The licensee must ensure that each patient is provided, in the way specified by the Director, 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.

63. Historical statistics on fees and charges

- (1) The licensee of a hospital must publish historical statistics on the fees and charges for the specified treatments and procedures.
- (2) The licensee must publish the historical statistics in the way specified by the Director.
- (3) In this section—

specified treatments and procedures (指明治療及程序) means the treatments and procedures provided by the hospital that are specified by the Director for the purpose of publication under this section.

Division 5—Complaints Management**64. Complaints handling procedure**

- (1) The licensee of a private healthcare facility must put in place a complaints handling procedure for receiving, managing and responding to complaints that are received against the facility.

- (2) The licensee must ensure the complaints handling procedure is made known in an appropriate way to—
 - (a) the patients of the facility; and
 - (b) if the case requires, persons acting on their behalf.
- (3) The licensee must, on receiving a complaint against the facility, ensure that—
 - (a) an investigation of the complaint is conducted and findings made;
 - (b) if the case requires, an improvement measure, whether general or specific to the complaint, is implemented; and
 - (c) the complainant is informed of the findings of the investigation and any improvement measure and, if the case requires, of any follow-up action taken or to be taken.
- (4) The chief medical executive of the facility must, on request, provide to the Director a summary of the following matters that the Director considers necessary for performing the Director's functions under this Ordinance—
 - (a) the complaints against the facility received by the facility;
 - (b) the findings of the investigations of the complaints;
 - (c) the actions (including improvement measures) taken in response to the complaints.

65. Complaints under consideration by Complaints Committee

- (1) This section applies if a complaint against a private healthcare facility is made under section 82 and the Complaints Committee is considering the complaint.

- (2) The facility must fully cooperate with the Complaints Committee in providing any information or documents requested and giving any assistance necessary for concluding the case.
- (3) Without limiting subsection (2), the facility may still effect a settlement with the complainant.

Division 6—Miscellaneous Operational Matters

66. Distinct and separate premises

- (1) This section applies in relation to a permitted facility.
- (2) The operator of the facility must ensure that the premises of the facility are physically separated from any premises that serve a purpose not reasonably incidental to—
 - (a) for a facility that is an exempted clinic—the practice carried on in the facility as specified in the letter of exemption for the facility; or
 - (b) for another facility—the type of facility for which the licence is issued.
- (3) The operator must also ensure that the facility is a distinct and exclusive unit and is able to perform its functions independently.

67. Separate entrance

- (1) This section applies in relation to a permitted facility.
- (2) In addition to the requirements in section 66, the operator of the facility must also ensure that the facility has a direct and separate entrance not shared with, or involving passing through, any premises that serve a purpose not reasonably incidental to—

- (a) for a facility that is an exempted clinic—the practice carried on in the facility as specified in the letter of exemption for the facility; or
- (b) for another facility—the type of facility for which the licence is issued.

68. Continuous confinement of patients

- (1) This section applies in relation to any of the following private healthcare facilities—
 - (a) a day procedure centre for which a licence is in force;
 - (b) a clinic for which a licence is in force;
 - (c) an exempted clinic.
- (2) Subject to subsection (3), the operator of the facility must not provide to any person a medical procedure that may require the person's continuous confinement within the facility for more than 12 hours.
- (3) If the facility is a day procedure centre, the period of continuous confinement referred to in subsection (2) must be within the same calendar day.

69. Registered medical practitioner resident in hospital

The licensee of a hospital must ensure that there is at least 1 registered medical practitioner resident in the hospital at all times.

70. Names or descriptions not be used for certain rooms

- (1) This section applies in relation to a permitted facility.

- (2) Except with the prior approval in writing of the Director, a room, unit or section of a private healthcare facility must not bear a name or description that includes the expression “operating room”, “operation room”, “operating theatre”, “operation theatre”, “手術室”, “手術房” or “手術間”, or a similar expression.
-

Part 6

Complaints against Private Healthcare Facilities

Division 1—Committee on Complaints against Private Healthcare Facilities

71. Establishment

- (1) A committee is established with the name “Committee on Complaints against Private Healthcare Facilities” in English and “私營醫療機構投訴委員會” in Chinese.
- (2) The Complaints Committee is to consist of the following members appointed by the Secretary—
 - (a) a chairperson;
 - (b) a deputy chairperson;
 - (c) not less than 24, and not more than 48, other members.
- (3) A member of the Complaints Committee is to be appointed for a term not exceeding 3 years and is eligible for reappointment on the expiry of the term.
- (4) At least half of the members of the Complaints Committee must be persons who are neither registered medical practitioners nor registered dentists.
- (5) A public officer is ineligible for appointment under subsection (2).
- (6) A member of the Complaints Committee may resign from office by giving notice in writing to the Secretary.
- (7) The Secretary may terminate the appointment of a member if satisfied that—

- (a) the member has become bankrupt or made a voluntary arrangement with the member's creditors within the meaning of the Bankruptcy Ordinance (Cap. 6); or
- (b) the member is unable or unfit to perform the functions of a member of the Complaints Committee because of physical or mental illness or another reason.
- (8) Every appointment or termination under this section is to be notified in the Gazette.
- (9) Except as otherwise provided in this Ordinance, the Complaints Committee may determine its own procedure.

72. Appointment of secretary and legal adviser

- (1) The Secretary is to appoint the following for the Complaints Committee for a period and on the terms specified in the letter of appointment—
 - (a) a secretary who is a public officer;
 - (b) a legal adviser.
- (2) A person appointed under this section may resign from office by giving notice in writing to the Secretary.

73. Functions

- (1) The Complaints Committee has the following functions—
 - (a) to advise the Director on the policies on complaints management for private healthcare facilities;
 - (b) to receive and consider facility complaints;
 - (c) to make recommendations to the Director on matters relating to facility complaints, including whether to take any regulatory action against the private healthcare facilities concerned;

- (d) to refer, in appropriate cases, facility complaints to regulatory authorities for any follow-up action;
 - (e) to make recommendations to private healthcare facilities on any improvement measures;
 - (f) to report to the Director any general regulatory issue arising from the facility complaints handled by the Committee;
 - (g) to publish on a regular basis summary reports on—
 - (i) the facility complaints handled by the Committee; and
 - (ii) the recommendations made by the Committee to the Director and the private healthcare facilities concerned;
 - (h) to publicize how complaints may be made to the public.
- (2) The Complaints Committee may, in writing, engage any person whose technical or professional services would assist the Committee in performing its functions.

74. Meetings

- (1) At a meeting of the Complaints Committee, 13 members form a quorum.
- (2) The chairperson of the Complaints Committee is to preside at a meeting.
- (3) If, for any reason, the chairperson is unable to preside at a meeting, the deputy chairperson is to preside at the meeting.

- (4) If, for any reason, the deputy chairperson is also unable to preside at the meeting, the members present at the meeting are to elect from among themselves a member to preside at the meeting.
- (5) All questions for determination are to be decided by a majority of votes of the members present and voting.
- (6) If there is an equality of votes, the member who is presiding has a casting vote.

75. Declaration of interest regarding facility complaint

- (1) If the chairperson of the Complaints Committee has an interest (whether material or not) in a facility complaint, the chairperson—
 - (a) must declare the interest to the Committee as soon as practicable after the chairperson has become aware of the interest; and
 - (b) must not participate in any deliberation, or be involved in any determination, regarding the facility complaint.
- (2) If a member of the Complaints Committee has an interest in a facility complaint, the member must declare the interest to the Committee as soon as practicable after the member has become aware of the interest.
- (3) If the chairperson (or, if the chairperson is unavailable, the deputy chairperson) of the Complaints Committee decides that the member's interest is material, the member must not participate in any deliberation, or be involved in any determination, regarding the facility complaint.

- (4) If the member has been appointed to a case panel under section 78 to deal with the facility complaint, whether or not the interest is material, the chairperson of the Complaints Committee must appoint another member of the Committee to the case panel to replace the member.

76. Transaction of business by circulation of papers

- (1) Despite section 74 and except for making a decision of the Complaints Committee under section 87(2)(b) or (4), the Committee may transact any of its business by circulation of papers without meeting.
- (2) A resolution in writing signed by a majority of the members of the Complaints Committee is as valid and effective as if it had been passed at a meeting of the Committee by the votes of the members who signed the resolution.

Division 2—Preliminary Processing Panels and Case Panels

77. Appointment of preliminary processing panels

- (1) The Complaints Committee is to appoint one or more panels to deal with preliminary processing of facility complaints.
- (2) A preliminary processing panel is to consist of not less than 3, and not more than 5, members appointed by the chairperson (or, if the chairperson is unavailable, the deputy chairperson) of the Complaints Committee.
- (3) Members of a preliminary processing panel must be appointed from the members of the Complaints Committee.

- (4) A preliminary processing panel must include at least 1 member who is neither a registered medical practitioner nor a registered dentist.
- (5) A member of a preliminary processing panel is to be appointed for a term not exceeding the term of his or her membership of the Complaints Committee.
- (6) If, during the processing of a facility complaint by a preliminary processing panel, the term of a member of the panel would otherwise expire, the member may continue to be a member of the panel for the purpose of completing the processing of the facility complaint.
- (7) A member of a preliminary processing panel may resign from the panel by giving notice in writing to the chairperson of the Complaints Committee.
- (8) A member of a preliminary processing panel may not be appointed as a member of a case panel.

78. Appointment of case panels

- (1) Subject to section 84(2), the Complaints Committee may appoint one or more case panels (each with a separate convener) to deal with facility complaints.
- (2) A case panel is to consist of the convener and either 2 or 4 other members appointed by the chairperson (or, if the chairperson is unavailable, the deputy chairperson) of the Complaints Committee.
- (3) Members of a case panel must be appointed from the members of the Complaints Committee.
- (4) A case panel must include at least—
 - (a) 1 member who is a registered medical practitioner or registered dentist; and

- (b) 1 member who is neither a registered medical practitioner nor a registered dentist.
- (5) A member of the Complaints Committee may be appointed as a member of one or more case panels at the same time.
- (6) If, during the consideration of a facility complaint by a case panel, the term of a member of the panel would otherwise expire, the member may continue to be a member of the panel for the purpose of completing the consideration of the facility complaint.

79. Functions of case panel

- (1) A case panel appointed to deal with a facility complaint must consider the complaint and decide whether the allegations in the complaint are substantiated.
- (2) For the purposes of subsection (1), the case panel may exercise a power under sections 88, 89 and 91 to enable it to consider the facility complaint.
- (3) The case panel is to submit its findings and recommendations to the Complaints Committee after considering the facility complaint.

Division 3—Confidentiality of Information and Protection of Members of Complaints Committee

80. Confidentiality of information or document

- (1) A member, or the secretary, of the Complaints Committee must not disclose or give to another person any information or document obtained for the purpose of considering a facility complaint.

-
- (2) Subsection (1) does not prohibit the member or secretary from disclosing or giving the information or document if—
- (a) the disclosure or giving is necessary for performing the member's functions (including the functions as a member of a preliminary processing panel or case panel) or secretary's functions under this Ordinance, or for carrying into effect or doing anything authorized by this Ordinance;
 - (b) the disclosure or giving is for making a recommendation or referral to the Director on a matter relating to a facility complaint;
 - (c) the disclosure or giving is made under an order of a court; or
 - (d) the information, or the document or its copy (including a counterpart), has already been lawfully disclosed or made available to the public.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine at level 4.
- (4) It is a defence for a person charged with an offence under subsection (3) to show that at the time of the alleged offence, the person—
- (a) believed that there was lawful authority for the person to disclose or give the information or document to the other person and the person had no reasonable cause to believe otherwise; or
 - (b) did not know and had no reasonable cause to believe that the information or document disclosed or given was confidential.

81. Protection of members of Complaints Committee

- (1) A member of the Complaints Committee is not civilly liable for any act done, or omitted to be done, by the member in good faith in performing or purportedly performing the member's function (including the functions as a member of a preliminary processing panel or case panel) under this Ordinance.
- (2) For the purposes of the law of defamation, if the member makes a comment, or publishes a matter, relating to a facility complaint in any communication, report or statement (in writing or otherwise) for performing the member's functions under this Ordinance, the comment or publication is absolutely privileged.

Division 4—Making and Dealing with Complaints**82. Making facility complaint**

- (1) The following persons may make a complaint to the Complaints Committee against a private healthcare facility for which a licence is in force—
 - (a) a patient of the facility;
 - (b) a substitute decision maker of the patient;
 - (c) a person authorized by the patient in writing to make a complaint;
 - (d) the personal representative of the patient.
- (2) The facility complaint—
 - (a) must be made in the form and way specified by the Director;
 - (b) must be substantiated by specific facts;

- (c) must be accompanied by a statutory declaration as to the truthfulness and correctness of the information given to substantiate the complaint; and
- (d) must be accompanied by a consent to the facility to disclose any information about the individual to whom the complaint relates to any one or more of the following (as the case requires)—
 - (i) the Complaints Committee;
 - (ii) a medical professional or other expert appointed by the Complaints Committee to assist in investigating the complaint;
 - (iii) the Director;
 - (iv) an authorized officer.
- (3) If a settlement is effected between the complainant and the facility before the case is concluded by the Complaints Committee, the complainant may, in writing, notify the Committee of the settlement and withdraw the complaint.

83. Preliminary processing of facility complaint

- (1) If a facility complaint against a private healthcare facility is received, it must be processed by a preliminary processing panel.
- (2) If the subject matter of the facility complaint had been handled by the facility before the complaint is made under section 82, the preliminary processing panel may, by notice in writing, require the facility to provide to the Complaints Committee, within the period specified in the notice, all correspondence between the complainant and the facility relating to the matter.

-
- (3) If the subject matter of the facility complaint had not been handled by the facility before the complaint is made under section 82, the preliminary processing panel may, by notice in writing, require the facility to, within the period specified in the notice—
 - (a) conduct an investigation of the complaint;
 - (b) make a substantive reply to the complainant; and
 - (c) provide to the Complaints Committee the result of the investigation and the reply to the complainant.
 - (4) The preliminary processing panel is to—
 - (a) compile any documents received under subsections (2) and (3);
 - (b) identify whether a ground referred to in section 84(2) is found in relation to the facility complaint; and
 - (c) report to the Complaints Committee on the result of the preliminary processing of the complaint.
 - (5) If a private healthcare facility fails to comply with a requirement made of it under subsection (3), the Complaints Committee may refer the case to the Director for any further action.
 - (6) If the complainant referred to in subsection (3) is satisfied with the reply made by the facility after the investigation, the complainant may, in writing, notify the Complaints Committee of the fact and withdraw the facility complaint.
 - (7) A preliminary processing panel may transact any of its business by circulation of papers without meeting, and a resolution signed by a majority of the members of the panel is as valid and effective as if it had been passed at a meeting of the panel.

84. Consideration of facility complaint by case panel

- (1) On receiving a report from the preliminary processing panel under section 83(4)(c), the Complaints Committee must appoint a case panel to consider the facility complaint unless it has been withdrawn.
- (2) However, the Complaints Committee may refuse to appoint a case panel to consider a facility complaint if—
 - (a) the subject matter of the complaint is not related to compliance with this Ordinance or a code of practice;
 - (b) the event to which the complaint relates occurred more than 2 years before the day on which the complaint is made;
 - (c) the complaint is made anonymously or the complainant cannot be identified or traced;
 - (d) the subject matter of the complaint has been referred to, or is being considered by, the coroner;
 - (e) the complaint relates to a commercial matter;
 - (f) the complainant has instituted legal proceedings for the same subject matter; or
 - (g) the Committee considers that the complaint is frivolous or groundless.
- (3) If the Complaints Committee refuses to appoint a case panel under subsection (2), the Committee is to close the complaint case and inform the complainant in writing accordingly.

85. Recommendation for alternative dispute resolution

A case panel may recommend the Complaints Committee to advise the complainant of a facility complaint to seek an alternative dispute resolution to an issue it finds in considering the complaint, if—

- (a) the issue is not related to compliance with this Ordinance or a code of practice;
- (b) the case panel considers that the outcome sought by the complainant for the issue is unlikely to be satisfied by a decision of the Committee; or
- (c) the case panel considers that resolution of the issue by the Committee is neither efficient nor practical.

86. Conclusion of complaints and recommendations of case panel

- (1) A case panel must, after considering a facility complaint, make one or more of the recommendations specified in subsection (2) to the Complaints Committee for its consideration.
- (2) The recommendations are—
 - (a) if the case panel finds that the complaint is not substantiated—to close the complaint case; or
 - (b) if the case panel finds that the complaint (or any part of it) is substantiated—
 - (i) to refer the complaint to the Director for the assessment of any breach of a licensing requirement by the private healthcare facility and any necessary regulatory action against the facility;
 - (ii) to refer the complaint to another regulatory authority for the investigation of the complaint and any follow-up action;

- (iii) to advise the facility on any improvement measures; and
- (iv) to report to the Director any regulatory issue arising from the facts of the case or the case panel's observations during consideration of the complaint.

87. Complaints Committee's consideration of case panel's recommendations

- (1) If the Complaints Committee approves the recommendations made by a case panel under section 86 on a facility complaint, the Committee is to—
 - (a) close the complaint case; and
 - (b) inform the complainant in writing of—
 - (i) the decision of the Committee; and
 - (ii) any action taken or to be taken in relation to the private healthcare facility according to the recommendations approved by the Committee.
- (2) If the Complaints Committee does not approve the recommendations (or any of them) made by a case panel on a facility complaint, the Committee may—
 - (a) return the complaint case or the relevant issue to the case panel for review; or
 - (b) make its own decision in relation to the complaint case or relevant issue at a meeting of the Committee.
- (3) If, after a return mentioned in subsection (2)(a), the case panel makes only a recommendation that the Complaints Committee approves, the Committee is to—
 - (a) close the complaint case; and
 - (b) inform the complainant in writing of—

- (i) the decision of the Committee; and
 - (ii) any action taken or to be taken in relation to the private healthcare facility according to the recommendations approved by the Committee.
- (4) If, after a return mentioned in subsection (2)(a), the case panel makes a recommendation that the Complaints Committee does not approve, the Committee may make its own decision in relation to the complaint case or relevant issue at a meeting of the Committee.
- (5) For the purpose of making a decision under subsection (2)(b) or (4), the Complaints Committee may exercise a power under sections 88, 89 and 91 to enable it to consider the facility complaint.
- (6) After a decision is made under subsection (2)(b) or (4), the Complaints Committee is to—
 - (a) close the complaint case; and
 - (b) inform the complainant in writing of—
 - (i) the decision of the Committee; and
 - (ii) any action taken or to be taken in relation to the private healthcare facility that the Committee considers appropriate.

Division 5—Investigation Powers of Complaints Committee

88. Obtaining information and document

- (1) For the purpose of considering a facility complaint, the Complaints Committee, the preliminary processing panel processing the complaint, or the case panel dealing with the complaint, may, by notice in writing, require a person—

- (a) to provide any information; and
 - (b) to produce a document or its copy,
relating to a matter that the Committee, preliminary
processing panel or case panel reasonably believes to be
relevant to the complaint.
- (2) A notice under subsection (1) must indicate the purpose
of obtaining the information or document.

89. Conducting interviews

- (1) For the purpose of considering a facility complaint, the
Complaints Committee or the case panel dealing with the
complaint, may interview any person who is, or may be,
able to provide information or other assistance to the
Committee or case panel in relation to the complaint.
- (2) An interview under this section must be conducted in
private.
- (3) Subject to subsections (4) and (5), the Complaints
Committee or case panel may decide who may be present
at an interview.
- (4) If a person interviewed under this section is under the age
of 16 years, or is known to the Complaints Committee or
case panel to be a mentally incapacitated person, the
person must be interviewed in the presence of—
 - (a) the person's parent or guardian;
 - (b) an adult who has an interest in the welfare of the
person and is, in the opinion of the Committee or
case panel, an appropriate person to be present at the
interview; or
 - (c) another person whom the Committee or case panel
considers appropriate in a particular case.

- (5) A person interviewed by the Complaints Committee or case panel has the right to be accompanied by a solicitor or counsel at the interview.
- (6) However, a solicitor or counsel does not have a right of audience before the Complaints Committee or case panel at an interview unless he or she is the person to be interviewed under this section.
- (7) In this section—
mentally incapacitated person (精神上無行為能力的人) has the meaning given by section 2(1) of the Mental Health Ordinance (Cap. 136).

90. Records of interviews

- (1) The Complaints Committee or the case panel dealing with a facility complaint must make a record of every interview conducted by the Committee or case panel.
- (2) The record is to be kept for the period that is necessary for performing the Complaints Committee's functions under this Ordinance.

91. Obtaining professional opinions

For the purpose of considering a facility complaint, the Complaints Committee or the case panel dealing with the complaint may obtain an opinion relating to the subject matter of the complaint by a regulatory authority, medical professional or another expert.

Part 7

Miscellaneous Offences and Related Provisions

Division 1—Miscellaneous Offences

92. Prohibited use of titles or descriptions

- (1) Except with the prior approval in writing of the Director, or except as provided or permitted by any other law, no premises (other than a permitted facility) may bear a title or description—
 - (a) that includes an expression specified in Schedule 7, or a similar expression; and
 - (b) that suggests that the services provided in the premises are medical services provided in a private healthcare facility.
- (2) Except with the prior approval in writing of the Director, or except as provided or permitted by any other law, a day procedure centre must not bear a title or description that includes the expression “hospital” or “醫院”, or a similar expression.
- (3) Except with the prior approval in writing of the Director, or except as provided or permitted by any other law, a clinic must not bear a title or description that includes the expression “hospital”, “day procedure centre”, “醫院” or “日間醫療中心”, or a similar expression.
- (4) Except with the prior approval in writing of the Director, or except as provided or permitted by any other law, a health services establishment must not bear a title or description that includes the expression “hospital”, “day

procedure centre”, “clinic”, “醫院”, “日間醫療中心” or “診所”, or a similar expression.

- (5) A person who uses a title or description for any premises in contravention of subsection (1), (2), (3) or (4) commits an offence and is liable on summary conviction to a fine at level 6 and to imprisonment for 2 years.
- (6) This section does not apply in relation to premises managed or controlled by a specified authority.

93. Making false or misleading statements or representations

- (1) If a person makes a statement or representation in an application under this Ordinance, or in a request under section 42, or to the Complaints Committee, the person commits an offence if—
 - (a) the statement or representation is false or misleading in a material particular; and
 - (b) the person knows or is reckless as to whether the statement or representation is false or misleading in a material particular.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine at level 6 and to imprisonment for 2 years.
- (3) In this section—

Complaints Committee (投訴委員會) includes a preliminary processing panel and a case panel.

Division 2—Other Matters Relating to Offences

94. Offences by bodies corporate or members of unincorporated bodies

- (1) If an offence under this Ordinance is committed by a body corporate or by a person as a member of an unincorporated body, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to the neglect or omission of a person specified in subsection (2), that person also commits the offence.
- (2) A person who, at the time of the offence, was one of the following persons, is a person specified for subsection (1)—
 - (a) in the case of an offence committed by a body corporate—a director, shadow director, company secretary, principal officer or manager, or any other person concerned in the management, of the body corporate;
 - (b) in the case of an offence committed by a member of an unincorporated body—a partner or office holder in, or a member or manager of, or any other person concerned in the management of, the unincorporated body;
 - (c) in a case mentioned in paragraph (a) or (b)—a person purporting to act in the capacity of a person referred to in that paragraph.
- (3) In this section—

company secretary (公司秘書) includes any person occupying the position of company secretary, by whatever name called;

principal officer (主要人員), in relation to a body corporate, means—

- (a) a person employed or engaged by the body corporate who, either alone or jointly with one or more other persons, is responsible under the immediate authority of the directors of the body corporate for the conduct of the business of the body corporate; or
- (b) a person employed or engaged by the body corporate who, under the immediate authority of a director of the body corporate or a person to whom paragraph (a) applies, performs managerial functions in respect of the body corporate;

shadow director (幕後董事), in relation to a body corporate, means a person under whose directions or instructions (excluding advice given in a professional capacity) the directors, or a majority of the directors, of the body corporate are accustomed to act.

95. Defence

In any proceedings for an offence under this Ordinance, the person charged is entitled to be acquitted if—

- (a) sufficient evidence is adduced to raise an issue that—
 - (i) the commission of the offence was due to a cause beyond the person's control; and
 - (ii) the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by—
 - (A) the person; or
 - (B) any person under the person's control; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

96. Compounding of offences

- (1) The Director may—
 - (a) compound any compoundable offence; and
 - (b) before judgment, apply for a stay and compound any proceedings for the offence.
- (2) If the Director compounds any compoundable offence under subsection (1), the Director must serve a notice in writing on the person reasonably suspected of having committed the offence, specifying the amount of money payable as a penalty for the offence.
- (3) A penalty payable under subsection (2) is recoverable as a civil debt due to the Government.
- (4) In this section—

compoundable offence (可罰款抵罪的罪行) means—

- (a) an offence under section 11(2), 44(3), 49(5), 57(2), 80(3), 118(5) or 119(4); or
- (b) another offence under this Ordinance or the regulations that is specified by the Secretary as an offence to which this section applies.

97. Time limit for prosecution

Despite section 26 of the Magistrates Ordinance (Cap. 227), a complaint may be made or an information laid in respect of an offence under this Ordinance (except for an indictable offence) within 12 months after the offence is discovered by, or comes to the notice of, the Director.

Part 8

Administration, Enforcement and Miscellaneous Provisions

Division 1—Administration

98. Authorization of public officers

- (1) The Director may in writing authorize a public officer to exercise any power (other than that under section 105) of the Director under this Ordinance.
- (2) An authorized officer may be assisted by any person the officer reasonably requires to exercise the power.

99. Advisory Committees

- (1) The Director may appoint one or more advisory committees to advise on any matter relating to the regulation of private healthcare facilities.
- (2) The Director may—
 - (a) appoint the chairperson and other members of an advisory committee; and
 - (b) determine the composition of a committee.
- (3) An advisory committee may determine its own procedure.

100. Fees and allowances to members of committees

The Director may pay a member of a committee appointed under this Ordinance the fees and allowances determined by the Financial Secretary.

101. Secretary may specify category of health services establishment

- (1) The Secretary may, by notice published in the Gazette, specify a category of health services establishment in Schedule 8.
- (2) A notice under subsection (1) is subsidiary legislation.

102. Director may issue code of practice

- (1) The Director may issue a code of practice about any of the following matters—
 - (a) the equipment, fittings and furnishings in private healthcare facilities;
 - (b) the management and staffing arrangement of private healthcare facilities;
 - (c) the quality of care for, and the safety of, patients in private healthcare facilities;
 - (d) any other matters for protecting the health and interests of individuals receiving healthcare services in private healthcare facilities.
- (2) A code of practice may include—
 - (a) a standard; and
 - (b) a specification.
- (3) A code of practice may refer to, apply or incorporate a document that has been formulated, published or specified by the Director either—
 - (a) as in force at the time when the document is referred to, applied or incorporated; or
 - (b) as amended, formulated, published or specified from time to time.

-
- (4) If a code of practice is issued, the Director must by notice published in the Gazette—
 - (a) identify the code of practice; and
 - (b) specify the date on which the code of practice is to take effect.
 - (5) The Director may from time to time revise or revoke the whole, or any part, of a code of practice issued under subsection (1).
 - (6) If a code of practice is revised or revoked under subsection (5), the Director must by notice published in the Gazette—
 - (a) identify the code of practice, or any part so revised or revoked; and
 - (b) specify the date on which the revision or revocation is to take effect.
 - (7) A code of practice must be made available for public inspection free of charge—
 - (a) through the Internet; and
 - (b) at the office of the Director, or any other Government offices as the Director may direct, during normal office hours.
 - (8) A code of practice issued (whether revised or not) under this section is not subsidiary legislation.
 - (9) To avoid doubt, different codes of practice may be issued under this section for different purposes under this Ordinance.

103. Director may specify certain medical procedures in code of practice

- (1) Despite section 5 and the inclusion of a medical procedure in column 2 of Schedule 2, the Director may, in a code of practice, specify a medical procedure that may only be carried out in a hospital.
- (2) Despite section 5, if a code of practice specifies that a medical procedure may only be carried out in a hospital, the procedure may not be carried out in a day procedure centre.

104. Director may give directions

- (1) The Director may, by notice in writing, give any direction to a person, or a private healthcare facility for which a licence is in force, specifying the details as to how the person or facility is to comply with—
 - (a) this Ordinance; or
 - (b) a code of practice.
- (2) If the direction is given to a private healthcare facility, the notice must be served on the licensee or chief medical executive of the facility.
- (3) A notice under subsection (1) must indicate a period within which the direction must be complied with.

105. Director may grant exemptions

- (1) The Director may exempt in writing any person from any of the provisions of a code of practice.
- (2) The Director may impose conditions on an exemption given under subsection (1), and those conditions must be set out in the exemption.

- (3) The Director may at any time revoke an exemption given under subsection (1) if it appears to the Director that a condition of the exemption has been contravened.

106. Director may specify forms

- (1) The Director may specify the form of a document required for the purposes of this Ordinance.
- (2) The Director may specify more than one form of the document, whether as alternatives or to provide for different circumstances.
- (3) A form specified under this section—
 - (a) must be completed in accordance with the directions and instructions that are specified in the form; and
 - (b) if the completed form is required to be provided to the Director or another person—must be provided in the way specified in the form.

107. Director to establish and maintain registers

- (1) The Director must, for the purposes of this Ordinance, establish and maintain—
 - (a) a register of all private healthcare facilities for which licences are in force; and
 - (b) a register of all small practice clinics for which exemptions under section 43 are in force.
- (2) A register under subsection (1) may be kept in a form, and may contain the information, that the Director considers appropriate.
- (3) The registers must be made available for a member of the public to ascertain the following—

- (a) whether a private healthcare facility is operated with a licence that is in force;
 - (b) whether a small practice clinic is operated with an exemption under section 43 that is in force.
- (4) The registers must be made available for public inspection free of charge—
 - (a) through the Internet; and
 - (b) at the office of the Director, or any other Government offices as the Director may direct, during normal office hours.

108. Issue of duplicate certificate etc.

- (1) If the original of a certificate of licence, or a letter of exemption under section 43, is lost, stolen, destroyed, defaced or damaged, the Director may, on application, issue to the operator of the private healthcare facility a duplicate of the certificate or letter to replace the original.
- (2) The application—
 - (a) must be accompanied by the appropriate fee specified in Schedule 3; and
 - (b) must be accompanied by the original document if it is still available to the operator.
- (3) A duplicate issued under subsection (1) has the same effect as, and is equivalent to, the original document before replacement.
- (4) On the issue of a duplicate, the original document ceases to have effect.

109. Late payment of fees

- (1) This section applies if a person fails to pay, within the time specified by the Director, the appropriate fee (or any part of it) for an application under this Ordinance.
- (2) Without affecting other provisions of this Ordinance, the Director may, by notice in writing, order the person to pay a surcharge not exceeding 5% of the unpaid amount within the time specified by the Director for the purposes of this subsection.

110. Fees paid not refundable

Any fee paid under this Ordinance is not refundable.

Division 2—Powers of Enforcement

111. Interpretation

In this Division—

contravention (違反事項) means a contravention of any of the following—

- (a) this Ordinance;
- (b) a condition of the licence;
- (c) a code of practice;
- (d) a direction.

112. Director may require information and documents

- (1) This section applies if the Director has reasonable cause to suspect that a person has, or may have, possession or control of information or documents in relation to a matter that constitutes, or may constitute, a contravention.

- (2) For the purpose of conducting an investigation on the contravention, the Director may, by notice in writing, require the person to provide or produce the information or documents that are necessary for the investigation.
- (3) The notice must indicate the subject matter and purpose of the investigation.
- (4) The Director may also specify in the notice—
 - (a) the time and place at which any information or document is to be provided or produced; and
 - (b) the form and way in which any information or document is to be provided or produced.
- (5) A person commits an offence if the person, without reasonable excuse, refuses or fails to provide or produce any information or document required by the Director under subsection (2).
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.
- (7) If a person provides or produces any information or document to the Director under subsection (2), the person commits an offence if—
 - (a) the information or document is false or misleading in a material particular; and
 - (b) the person knows or is reckless as to whether the information or document is false or misleading in a material particular.
- (8) A person who commits an offence under subsection (7) is liable on summary conviction to a fine at level 6 and to imprisonment for 2 years.

113. Power of entry to private healthcare facility without warrant

The Director or an authorized officer may, without a warrant issued by a magistrate, enter a private healthcare facility for which a licence is in force at any reasonable time and exercise a power specified in section 116 for ascertaining—

- (a) whether the following is complied with—
 - (i) this Ordinance;
 - (ii) a condition of the licence;
 - (iii) a code of practice;
 - (iv) a direction; and
- (b) the safety, legality, quality and appropriateness of—
 - (i) the services provided in the facility; or
 - (ii) the medical procedures carried out in the facility.

114. Power of entry with warrant

- (1) The Director or an authorized officer may, with a warrant issued under subsection (2), enter, by the use of reasonable force if necessary, any premises and exercise a power specified in section 116 in relation to the premises and do any other thing necessary for investigating whether a contravention is being, or has been, committed.
- (2) A magistrate may issue a warrant authorizing the Director or an authorized officer to enter the premises and exercise a power specified in section 116 in relation to the premises only if—
 - (a) the magistrate is satisfied by information on oath that there are reasonable grounds to suspect that—
 - (i) a contravention is being, or has been, committed on the premises; or

- (ii) there is on the premises anything that constitutes, or is likely to constitute, evidence that a contravention is being, or has been, committed; and
- (b) the magistrate is also satisfied that—
 - (i) it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (ii) such a person has unreasonably refused entry to the premises by the Director or an authorized officer;
 - (iii) the Director or an authorized officer apprehends on reasonable grounds that entry to the premises is unlikely to be granted unless a warrant is issued; or
 - (iv) the purpose of entry to the premises would be frustrated unless the Director or an authorized officer arriving at the premises can secure immediate entry.
- (3) A person entering premises under a warrant issued under subsection (2) must, if requested, produce the warrant for inspection.
- (4) Unless otherwise specified by the magistrate, a warrant issued under subsection (2) continues in force until the purpose for the entry has been satisfied.
- (5) A warrant issued under subsection (2) must be executed at a reasonable hour unless the Director or an authorized person executing it believes that to execute it at a reasonable hour could frustrate the purpose of the execution.

115. Power of entry in emergencies

- (1) The Director may, if satisfied that the conditions in subsection (2) are met—
 - (a) enter any premises and exercise a power specified in section 116 in relation to the premises and do any other thing necessary for investigating whether a contravention is being, or has been, committed; or
 - (b) authorize an authorized officer to exercise the powers mentioned in paragraph (a).
- (2) The conditions are—
 - (a) that there are reasonable grounds to suspect that—
 - (i) a contravention is being, or has been, committed on the premises; or
 - (ii) there is on the premises anything that constitutes, or is likely to constitute, evidence that a contravention is being, or has been, committed; and
 - (b) that—
 - (i) immediate entry into the premises is necessary for protecting public health; or
 - (ii) it is not reasonably practicable to obtain a warrant in the circumstances of the case.
- (3) If the person entering the premises is an authorized officer, the person must, if requested, produce the Director's authorization for inspection.

116. Powers after entry

The powers specified for the purposes of sections 113, 114(1), 115(1) and 132 are—

- (a) to inspect and search the premises;

- (b) to examine, remove and detain any apparatus, appliance, equipment, instrument, substance, record or document used or found on the premises;
- (c) to examine, take samples of, remove, detain and demand any part or produce of a human body found on the premises;
- (d) to observe any procedure or test provided at the premises;
- (e) to take any photograph and video recording inside the premises;
- (f) to observe, with a patient's consent, the services provided to the patient in the facility;
- (g) to do anything necessary for ascertaining whether this Ordinance, a condition of the licence, a code of practice or a direction has been complied with;
- (h) to seize and detain anything which is, or which appears to be or to contain, or which is likely to be or to contain, evidence of the commission of a contravention, or to take such steps as appear to be necessary for preserving such thing or preventing interference with it; and
- (i) to require any person present on the premises to provide any assistance or information necessary to enable the Director or an authorized officer to perform their functions under this Ordinance.

117. Obstructing Director or authorized officer in performing functions

- (1) A person commits an offence if the person wilfully obstructs or delays the Director or an authorized officer in performing any of their functions, or doing anything they are authorized to do, under this Ordinance.

- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine at level 6 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of \$10,000 for each day during which the offence continues.

Division 3—Miscellaneous Provisions

118. Secretary may require information from licensees

- (1) The Secretary may, for the formulation of healthcare policies, require the licensee of a private healthcare facility to provide any information that the Secretary considers necessary in relation to the facility with regard to the following matters—
 - (a) the financing of healthcare services and manpower;
 - (b) the provision of healthcare services and manpower.
- (2) The Secretary must not disclose information provided under subsection (1) to any person other than the Director or the Hospital Authority, and the information may only be disclosed for the purpose of formulation of healthcare policies.
- (3) The information disclosed to the Hospital Authority may only be disclosed in the form of aggregate data that does not allow the identity of the patient or the private healthcare facility to be ascertained.
- (4) Information in relation to a patient required under subsection (1) may only be any or all of the following information—
 - (a) unique record number;
 - (b) age;
 - (c) sex;

- (d) type of care received and procedure carried out;
 - (e) admission date;
 - (f) date of discharge or death;
 - (g) diagnosis on discharge;
 - (h) bill size.
- (5) A person commits an offence if the person, without reasonable excuse, refuses or fails to provide any information required by the Secretary under subsection (1).
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

119. Confidentiality

- (1) This section applies to a public officer who performs any function under this Ordinance.
- (2) Subject to subsection (3), if—
- (a) any information has come to the knowledge, or any document has come into the possession, of the public officer in the course of performing any function under this Ordinance; and
 - (b) the information or document relates to the condition, treatment or diagnosis of another person, or a trade or business secret,
- the public officer must not disclose or give the information or document to a third person.
- (3) Subsection (2) does not prohibit the public officer from disclosing or giving the information or document if—

- (a) the disclosure or giving is necessary for performing the public officer's functions under this Ordinance, or for carrying into effect or doing anything authorized by this Ordinance;
- (b) the disclosure or giving is made with the consent in writing of the person from whom the information or document was obtained or received and, if the information relates to another person, with the consent in writing also of that other person;
- (c) the disclosure or giving is made under an order of a court;
- (d) the disclosure or giving is made in the form of an anonymous summary compiled to prevent particulars relating to the business, identity, or trading particulars, of the following persons from being ascertained—
 - (i) any of those persons who have produced or provided the information;
 - (ii) any persons to whom the information relates;
- (e) the disclosure or giving is made for the purpose of seeking advice from, or giving advice by, a counsel or a solicitor or any other professional adviser, acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance;
- (f) the information or document has already been lawfully disclosed or made available to the public; or
- (g) the disclosure or giving is made to prevent or mitigate a significant risk of injury to a person.

- (4) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine at level 4.
- (5) It is a defence for a person charged with an offence under subsection (4) to show that at the time of the alleged offence, the person—
 - (a) believed that there was lawful authority for the person to disclose or give the information or document to the other person and the person had no reasonable cause to believe otherwise; or
 - (b) did not know and had no reasonable cause to believe that the information or document disclosed or given was confidential.
- (6) In this section—
anonymous summary (隱名摘要) means a summary compiled from similar information obtained or received from a number of persons.

120. Immunity from civil liability

- (1) A public officer is not civilly liable for an act done or omitted to be done by the public officer in good faith in performing or purportedly performing a function under this Ordinance.
- (2) Subsection (1) does not affect any liability of the Government for the act or omission.

121. Service of notice

- (1) A notice or other document (however described) required to be given or sent under this Ordinance is, in the absence of evidence to the contrary, given or sent if—

- (a) for the Director—
 - (i) it is addressed to the Director and delivered to the Director's principal office; or
 - (ii) it is sent to the Director by post addressed to the address specified by the Director;
- (b) for an individual—
 - (i) it is addressed to the individual and delivered personally to the individual; or
 - (ii) it is sent to the individual by post addressed to the individual at the individual's last known address;
- (c) for a partnership—
 - (i) it is addressed to the partnership and delivered by hand to a place in Hong Kong at which the partnership carries on business, and given to a person apparently concerned in the management of, or apparently employed by, the partnership; or
 - (ii) it is sent to the partnership by post addressed to the partnership at the partnership's last known address;
- (d) for a company—
 - (i) it is addressed to the company and delivered to an officer of the company by hand;
 - (ii) it is left at, or sent by post to, the company's registered office within the meaning of the Companies Ordinance (Cap. 622); or
 - (iii) it is sent to the company by post addressed to the company at the company's last known address; or

- (e) for a body corporate other than a company, or an unincorporated body of persons other than a partnership—
 - (i) it is addressed to the body and delivered by hand to a place in Hong Kong at which the body carries on business, and given to a person apparently concerned in the management of, or apparently employed by, the body; or
 - (ii) it is sent to the body by post addressed to the body at the body's last known address.
- (2) A notice or document given or sent in accordance with subsection (1) is taken to have been served on the addressee—
 - (a) if it is delivered to the addressee personally—on the day of service; or
 - (b) if it is sent to the addressee's address for service or the addressee's last known address by post—at the time at which the notice or document would be delivered in the ordinary course of post.

122. Regulations

- (1) The Secretary may make regulations for the better carrying out of this Ordinance.
- (2) Without limiting subsection (1), the Secretary may by regulation—
 - (a) provide for administrative procedures, forms, and registers for the purposes of this Ordinance;
 - (b) provide for the management and control of private healthcare facilities;

- (c) provide for the standards of accommodation, staffing, equipment, delivery of care, and operation or provision of any services, in private healthcare facilities;
 - (d) provide for appointments, qualifications, duties and responsibilities of licensees and chief medical executives and other personnel of private healthcare facilities;
 - (e) provide for the assessment on attainment of standards of, or compliance with requirements by, private healthcare facilities, and the establishment or adoption of any scheme of accreditation for making the assessment;
 - (f) provide for the records, books, accounts, audits and reports relating to private healthcare facilities to be made, kept or submitted to the Director;
 - (g) provide for any other matters affecting the regulation of private healthcare facilities generally;
 - (h) prescribe anything that is to be or may be prescribed by a regulation made under this Ordinance; and
 - (i) provide for any incidental, supplemental, evidential, consequential, savings and transitional provisions that are necessary and expedient in consequence of the regulations.
- (3) Regulations made under this section may prescribe offences for contravention of the regulations, punishable by a fine, imprisonment or both, and provide for defences to any such offences.

- (4) The maximum fine that may be prescribed by a regulation for an offence is level 6 and the maximum imprisonment is 2 years. In addition, in the case of a continuing offence, a further fine not exceeding \$10,000 for each day during which the offence continues may be prescribed.
- (5) Without limiting section 28(5) of the Interpretation and General Clauses Ordinance (Cap. 1), if a provision of any of the regulations made under this section is to commence on a day to be notified in the Gazette—
 - (a) the notice may fix different days for the provision to commence for different purposes; and
 - (b) different notices may fix different days for the provision to commence for different purposes.

123. Amendment of Schedules

The Secretary may, by notice published in the Gazette, amend Schedules 1, 2, 3, 4, 5, 6, 7, 8 and 9.

Part 9

Transitional Arrangements

Division 1—Interpretation

124. Interpretation of Part 9

In this Part—

associated premises (相聯處所)—see section 125(2);

certificate of registration (註冊證明書) means a certificate of registration issued under section 3 of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165);

clinic licence (診所牌照) means a licence for a clinic;

day procedure centre licence (日間醫療中心牌照) means a licence for a day procedure centre;

exempted premises (豁免處所)—see section 127(4)(a);

exemption (豁免) means an exemption granted under section 127(4)(a) for a scheduled nursing home as exempted premises;

existing clinic (現有診所)—see section 135(1)(a);

existing day procedure centre (現有日間醫療中心)—see section 134(1)(a);

hospital licence (醫院牌照) means a licence for a hospital;

main premises (主要處所)—see section 125(2);

particular premises (特定處所)—see section 126(3);

registered hospital (註冊醫院) means a hospital, as defined in the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), for which a certificate of registration is issued;

registered person (註冊人士) means the person to whom a certificate of registration is issued;

registered premises (註冊處所)—see section 127(1)(a);

relevant premises (有關處所)—see section 127(1)(b);

scheduled nursing home (附表護養院) means a nursing home listed in Schedule 9 for which a certificate of registration is valid as at 1 April 2017.

Division 2—Application for Hospital Licence during Specified Period

125. Application for licence where hospital already registered

- (1) This section applies in relation to a person's application for a hospital licence made under section 13 if—
 - (a) the person is a registered person in relation to a registered hospital;
 - (b) the certificate of registration is valid at the time of the application; and
 - (c) the application is made within the period specified by the Director under subsection (7).
- (2) If the certificate of registration states that the premises of the registered hospital consist of a main hospital (**main premises**) and other facilities (**associated premises**), the registered person may, in making the application, apply only for a single licence for the main premises and all, or such part, of the associated premises that may be included in the application under subsection (3).
- (3) The associated premises that may be included in the application are those that—

- (a) do not form part of the premises of a day procedure centre or an outreach facility; and
- (b) are used, or intended to be used, for—
 - (i) providing medical services to patients, without lodging; or
 - (ii) carrying out minor medical procedures on patients, without lodging.
- (4) Subsection (2) applies even if the main premises and associated premises as a whole do not meet the description of premises in section 8.
- (5) Division 1 of Part 3 applies in relation to the application as if the main premises and the associated premises included in the application were one single private healthcare facility that is a hospital.
- (6) If a person applies for a hospital licence under section 13 in reliance on this section (whether or not associated premises are covered in the licence), the application needs only to be accompanied by the fee specified in item 12 of Schedule 3.
- (7) The Director may, by notice published in the Gazette, specify a period within which an application for a hospital licence under section 13 may be made in reliance on this section.

126. Hospital licence covering associated premises

- (1) This section applies in relation to—
 - (a) a hospital licence issued under section 17(1) in reliance on section 125;
 - (b) the first renewal of the licence; and
 - (c) the renewed licence after the first renewal only.

- (2) To avoid doubt, for the purposes of this Ordinance, the main premises and the associated premises covered by the licence constitute one private healthcare facility that is a hospital, and the provisions of this Ordinance apply accordingly.
- (3) If, at any time during the validity period of the licence, a specified event occurs in relation to particular associated premises (*particular premises*) covered by the licence, the particular premises cease to be covered by the licence immediately.
- (4) For subsection (3), each of the following events is a specified event—
 - (a) a licence is issued under section 17 for particular premises covered by the licence;
 - (b) the Director approves an application under section 23 from the person to whom the licence is issued to remove particular premises from the coverage of the licence.

Division 3—Application for Exemption of Nursing Home during Specified Period

127. Application for exemption where nursing home already registered

- (1) This section applies if—
 - (a) a person is a registered person in relation to a scheduled nursing home on premises (*registered premises*) stated in the certificate of registration; and
 - (b) the person has applied for, but has not been granted, any of the following in relation to all, or a part, of the registered premises (*relevant premises*)—

- (i) a licence under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459);
 - (ii) a licence under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613);
 - (iii) a licence for a private healthcare facility under this Ordinance.
- (2) The person may apply to the Director for an exemption in relation to the home on the relevant premises.
- (3) An application for an exemption must be—
 - (a) made within the period specified by the Director under subsection (7);
 - (b) made in the form and way specified by the Director; and
 - (c) accompanied by the information and documents specified by the Director.
- (4) On receiving the application, the Director may in writing—
 - (a) grant the exemption for all, or a part, of the relevant premises (*exempted premises*) and impose any conditions on the exemption that the Director considers appropriate in relation to the accommodation, staffing or equipment of the home; or
 - (b) refuse to grant the exemption if the Director considers it inappropriate for the home to be exempted.
- (5) Without limiting subsection (4)(b), the Director may refuse to grant the exemption if—

- (a) the Director is not satisfied that the applicant is a fit and proper person to operate or exercise control over the home; or
 - (b) the Director is not satisfied that a registered nurse will be resident in the home for the validity period of the exemption.
- (6) An exemption permits the person to whom it is granted to operate the home on the exempted premises without a licence, and section 10(1) does not apply to the person in relation to the person's operation of the home on the exempted premises.
- (7) The Director may, by notice published in the Gazette, specify a period within which an application for an exemption may be made.

128. Validity period of exemption

- (1) An exemption in relation to the operation of a scheduled nursing home on the exempted premises is valid for the period beginning on the date specified by the Director in the exemption and ending on the earliest of—
- (a) the day on which it is revoked under section 129 for all, or a part, of the exempted premises;
 - (b) the day on which any of the following licences is issued for all, or a part, of the exempted premises—
 - (i) a licence under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459);
 - (ii) a licence under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613);
 - (iii) a licence for a private healthcare facility under this Ordinance; and

- (c) if the Secretary has appointed a day under section 133 for the expiry of this Division—that day.
- (2) If an exemption ceases to be valid under subsection (1) for only part of the exempted premises, the exemption continues to be valid for the remaining part of the exempted premises.

129. Revocation of exemption

- (1) The Director may by notice revoke an exemption for all, or a part, of the exempted premises.
- (2) However, an exemption may be revoked only on a ground specified in section 130.
- (3) Before revoking an exemption, the Director must give the person to whom it was granted not less than 14 days' notice in writing of the intended revocation and the ground for the intended revocation.

130. Grounds for revoking exemption

The grounds for revoking an exemption in relation to the operation of a scheduled nursing home are as follows—

- (a) a ground that would entitle the Director to refuse to grant the exemption;
- (b) the contravention of a condition imposed by the Director under section 127(4)(a); or
- (c) the conviction of the person to whom the exemption was granted of an offence under this Ordinance in relation to the home.

131. Director to establish and maintain register of exempted nursing homes

- (1) The Director must, for the purposes of this Ordinance, establish and maintain a register of all scheduled nursing homes with a valid exemption.
- (2) A register under subsection (1) may be kept in a form, and may contain the information, that the Director considers appropriate.
- (3) The purpose of the register is to enable a member of the public to ascertain whether a home is operating with a valid exemption.
- (4) The register must be made available for public inspection free of charge—
 - (a) through the Internet; and
 - (b) at the office of the Director, or any other Government offices as the Director may direct, during normal office hours.

132. Power of entry into exempted nursing homes without warrant

The Director or an authorized officer may, without a warrant issued by a magistrate, enter a scheduled nursing home for which an exemption is valid at any reasonable time and exercise a power specified in section 116 for ascertaining—

- (a) whether this Ordinance and any condition of the exemption has been, and is being, complied with; and
- (b) the safety, legality, quality and appropriateness of the services provided in the home.

133. Expiry of Division 3

- (1) This Division expires on a day to be appointed by the Secretary by notice published in the Gazette.
- (2) The day to be appointed by the Secretary must be at least 1 year after the day on which the notice is published.

Division 4—Application for Day Procedure Centre Licence or Clinic Licence during Specified Period**134. Application for licence where day procedure centre already in operation**

- (1) This section applies in relation to a person's application for a day procedure centre licence made under section 13 if—
 - (a) the person operates a day procedure centre (*existing day procedure centre*) on the date specified by the Director under subsection (6)(a) on the premises for which the application is made; and
 - (b) the application is made within the period specified by the Director under subsection (6)(b).
- (2) On receiving the application, the Director must issue a provisional day procedure centre licence permitting the applicant to operate the existing day procedure centre on the premises if the Director is satisfied that—
 - (a) the applicant is a fit and proper person to operate or exercise control over the centre;
 - (b) a person is to be appointed as the chief medical executive for the centre as required under section 49 and the person is a fit and proper person to administer the centre; and

- (c) the operation of the centre by the applicant would not be contrary to the public interest.
- (3) The Director must, on the basis of the operation of the existing day procedure centre, specify in the provisional day procedure centre licence—
 - (a) the practice that may be carried on in the centre;
 - (b) the class of specialized service that may be provided in the centre; and
 - (c) the scale and scope of the services that may be provided in the centre.
- (4) A provisional day procedure centre licence may be issued subject to the conditions that the Director considers appropriate.
- (5) Despite section 25(2)(c), if the applicant is, at the time of the application, registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) or the Medical Clinics Ordinance (Cap. 343) for the premises, the application needs only to be accompanied by the fee specified in item 13 of Schedule 3.
- (6) The Director may, by notice published in the Gazette, specify—
 - (a) the date referred to in subsection (1)(a); and
 - (b) a period within which an application for a day procedure centre licence under section 13 may be made in reliance on this section.

135. Application for licence where clinic already in operation

- (1) This section applies in relation to a person's application for a clinic licence made under section 13 if—

- (a) the person operates a clinic (*existing clinic*) on the date specified by the Director under subsection (6)(a) on the premises for which the application is made; and
 - (b) the application is made within the period specified by the Director under subsection (6)(b).
- (2) On receiving the application, the Director must issue a provisional clinic licence permitting the applicant to operate the existing clinic on the premises if the Director is satisfied that—
 - (a) the applicant is a fit and proper person to operate or exercise control over the clinic;
 - (b) a person is to be appointed as the chief medical executive for the clinic as required under section 49 and the person is a fit and proper person to administer the clinic; and
 - (c) the operation of the clinic by the applicant would not be contrary to the public interest.
- (3) The Director must, on the basis of the operation of the existing clinic, specify in the provisional clinic licence—
 - (a) the practice that may be carried on in the clinic; and
 - (b) the scale and scope of the services that may be provided in the clinic.
- (4) A provisional clinic licence may be issued subject to the conditions that the Director considers appropriate.
- (5) Despite section 25(2)(c), if the applicant—
 - (a) holds, at the time of the application, a valid hospital licence in relation to which section 126 applies and the premises are covered in the licence as associated premises; or

- (b) is, at the time of the application, registered under the Medical Clinics Ordinance (Cap. 343) for the premises,
the application needs only to be accompanied by the fee specified in item 14 of Schedule 3.
- (6) The Director may, by notice published in the Gazette, specify—
 - (a) the date referred to in subsection (1)(a); and
 - (b) a period within which an application for a clinic licence under section 13 may be made in reliance on this section.

136. Validity period of provisional licence

- (1) A provisional licence issued under section 134(2) or 135(2) in relation to premises is valid for the period beginning on the date specified by the Director in the provisional licence and ending on the earlier of—
 - (a) the day a specified event occurs in relation to the premises; and
 - (b) if the Secretary has appointed a day under section 137 for the expiry of this Division—that day.
- (2) For subsection (1)(a), each of the following is a specified event—
 - (a) the issue of a licence under section 17 to the licensee of the provisional licence;
 - (b) the refusal to issue a licence under section 17 to the licensee of the provisional licence;
 - (c) the application for a licence made under section 13 is withdrawn, or deemed to be withdrawn, by the licensee of the provisional licence.

137. Expiry of Division 4

- (1) This Division expires on a day to be appointed by the Secretary by notice published in the Gazette.
 - (2) The day to be appointed by the Secretary must be at least 1 year after the day on which the notice is published.
-

Part 10

Amendment to Administrative Appeals Board Ordinance

138. Administrative Appeals Board Ordinance amended

The Administrative Appeals Board Ordinance (Cap. 442) is amended as set out in section 139.

139. Schedule amended

The Schedule—

Add

“75.	Private Healthcare Facilities Ordinance (of 2017)	A decision of the Director of Health—
		(a) to refuse to issue a licence under section 17(1)(b);
		(b) to issue a licence subject to particular conditions under section 17(3);
		(c) to refuse to renew a licence under section 21(2);
		(d) to impose particular conditions on renewing a licence under section 21(3);

- (e) to approve an application for variation of the scale or scope of services subject to particular conditions under section 23(3);
- (f) to refuse an application for variation of the scale or scope of services under section 23(4) or (5);
- (g) to approve an application for variation of the class of specialized service subject to particular conditions under section 24(3);
- (h) to refuse an application for variation of the class of specialized service under section 24(4) or (5);
- (i) to suspend or cancel a licence under section 28(1);

- (j) to suspend a facility service under section 29(1); or
 - (k) to amend the conditions of a licence under section 37(1).”.
-

Part 11

Amendments to Residential Care Homes (Elderly Persons) Ordinance and its Subsidiary Legislation

Division 1—Amendment to Residential Care Homes (Elderly Persons) Ordinance

140. Residential Care Homes (Elderly Persons) Ordinance amended

The Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) is amended as set out in section 141.

141. Section 6B added

Part 2, after section 6A—

Add

“6B. Certain nursing homes excepted from application of section 6

Section 6 does not apply to a residential care home that is also a *scheduled nursing home* (as defined by section 124 of the Private Healthcare Facilities Ordinance (of 2017)) if an exemption granted under section 127 of that Ordinance is in force in respect of the residential care home.”.

Division 2—Amendments to Residential Care Homes (Elderly Persons) Regulation

142. Residential Care Homes (Elderly Persons) Regulation amended

The Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A) is amended as set out in sections 143 to 146.

143. Section 2 amended (interpretation)**(1) Section 2—****Repeal the definition of *nurse*****Substitute****“*nurse* (護士) means—**

- (a) a registered nurse; or**
- (b) an enrolled nurse;”.**

(2) Section 2—**Add in alphabetical order****“*care staff* (護理人員) includes a care worker, health worker and nurse but does not include a home manager or nurse-in-charge;*****enrolled nurse* (登記護士) means any person whose name appears on the roll of enrolled nurses maintained under section 11 of the Nurses Registration Ordinance (Cap. 164);*****nurse-in-charge* (主管護士), in relation to a nursing home, means any person who is a registered nurse and who is responsible for supervising the nursing care of the residents in the nursing home;*****registered nurse* (註冊護士) means any person whose name appears on the register of nurses maintained under section 5 of the Nurses Registration Ordinance (Cap. 164);”.****144. Section 3 amended (types of residential care homes)****Before section 3(a)—**

Add

- “(aa) a *nursing home* (護養院) namely, an establishment providing residential care, supervision and guidance for persons who have attained the age of 60 years, and who are suffering from a functional disability to the extent that they require personal care and attention in the course of daily living activities, and a high degree of professional nursing care, but do not require continuous medical supervision; or”.

145. Section 11 amended (employment of staff by operator)

- (1) Section 11(1)—

Repeal

“shall”

Substitute

“(other than a nursing home) must”.

- (2) After section 11(1)—

Add

“(1A) The operator of a nursing home must employ—

- (a) a person as a home manager (who may also be the nurse-in-charge);
- (b) a person (who is a registered nurse) as a nurse-in-charge; and
- (c) a number of persons as care staff in the following way—
 - (i) at least 1 registered nurse being on duty in the nursing home at any time;
 - (ii) at least 1 member of the care staff for every 3 (or less than 3) beds in the nursing home;

- (iii) at least 1 nurse among every 3 (or less than 3) members of care staff in the nursing home.”.

- (3) After section 11(3)—

Add

- “(4) An operator of a nursing home must inform the Director, in writing within 14 days, of any change in the employment of a home manager or a nurse-in-charge under subsection (1A).”.

146. Schedule 2 amended (minimum area of floor space for each resident)

Schedule 2, before item 1—

Add

- “1A. Nursing home 6.5 m²”.

Part 12

Repeals

Division 1—Repeal of Hospitals, Nursing Homes and Maternity Homes Registration Ordinance

147. Hospitals, Nursing Homes and Maternity Homes Registration Ordinance repealed

The Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) is repealed.

Division 2—Repeal of Medical Clinics Ordinance

148. Medical Clinics Ordinance repealed

The Medical Clinics Ordinance (Cap. 343) is repealed.

Division 3—Repeal of Medical Clinics (Forms) Regulations

149. Medical Clinics (Forms) Regulations repealed

The Medical Clinics (Forms) Regulations (Cap. 343 sub. leg. A) are repealed.

Part 13

Related Amendments

Division 1—Enactments Amended

150. Enactments amended

The enactments specified in Divisions 2 to 32 are amended as set out in those Divisions.

Division 2—Amendment to Employment Ordinance (Cap. 57)

151. Section 33 amended (sickness allowance)

Section 33(6)(a)—

Repeal

“registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“licensed under the Private Healthcare Facilities Ordinance (of 2017)”.

Division 3—Amendment to Inland Revenue Ordinance (Cap. 112)

152. Section 26D amended (elderly residential care expenses)

Section 26D(5), definition of *residential care home*—

Repeal paragraph (d)

Substitute

“(d) which is a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;”.

Division 4—Amendment to Funeral Parlours Regulation (Cap. 132 sub. leg. AD)

153. Section 3 amended (interpretation)

Section 3, definition of *funeral parlour*—

Repeal paragraph (c)

Substitute

“(c) any mortuary situated within the precincts of—

- (i) a hospital within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;
- (ii) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force; or
- (iii) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

Division 5—Amendments to Dangerous Drugs Ordinance (Cap. 134)

154. Section 22 amended (statutory authority for certain persons to possess, supply or manufacture dangerous drugs)

(1) Section 22(1)—

Repeal paragraph (a)

Substitute

“(a) a registered medical practitioner (except a person registered as a medical practitioner with limited registration under section 14A of the Medical Registration Ordinance (Cap. 161) who practises medicine in a scheduled clinic within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force);”.

(2) Section 22(5A)—

Repeal paragraph (a)

Substitute

“(a) is registered as a medical practitioner with limited registration under section 14A of the Medical Registration Ordinance (Cap. 161); and”.

(3) Section 22(5A)(b)—

Repeal

“clinic exempted under section 8 of the Medical Clinics Ordinance (Cap. 343)”

Substitute

“scheduled clinic within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

155. Sixth Schedule amended

Sixth Schedule, paragraph 1—

Add in alphabetical order

“Clobazam

Clorazepate

Pinazepam”.

**Division 6—Amendments to Antibiotics Ordinance
(Cap. 137)**

156. Section 4 amended (control of sale and supply of substances to which this Ordinance applies)

(1) Section 4(1)—

Repeal paragraph (b).

(2) Section 4(2)—

Repeal

“, or a person referred to subsection (1)(b) and such substance or preparation is administered in the course of his practice in the clinic concerned”.

(3) Section 4(3)(d), proviso—

Repeal

“shall not apply to any hospital, clinic, nursing home or other institution which is required to be registered under the Medical Clinics Ordinance (Cap. 343) unless it is so registered”

Substitute

“does not apply to—

- (i) any private healthcare facility (within the meaning of the Private Healthcare Facilities Ordinance (of 2017)) to which that Ordinance applies, unless a licence issued for the facility under that Ordinance is in force;
- (ii) any scheduled nursing home (within the meaning of the Private Healthcare Facilities Ordinance (of 2017)) to which that Ordinance applies, unless an exemption granted for the scheduled nursing home under section 127 of that Ordinance is in force; or
- (iii) any nursing home (within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)) to which that Ordinance applies, unless a licence issued for the nursing home under that Ordinance is in force”.

157. Section 5 amended (prohibition of possession of substances to which this Ordinance applies)

Section 5(2)—

Repeal paragraph (b).

**Division 7—Amendments to Pharmacy and Poisons
Ordinance (Cap. 138)**

158. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *institution*—

Repeal paragraph (a)

Substitute

“(a) any private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;”.

(2) Section 2(1), definition of *institution*—

Repeal paragraph (b).

(3) Section 2(1), definition of *institution*, paragraph (ca)—

Repeal

“; or”

Substitute a semicolon.

(4) Section 2(1), definition of *institution*, after paragraph (d)—

Add

“(e) any scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force; or

(f) any nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

159. Section 28 amended (exemption with regard to medicines)

(1) Section 28(1)—

Repeal paragraph (b).

(2) Section 28(3)—

Repeal

“subsection (1)(b), (c)”

Substitute

“subsection (1)(c)”.

Division 8—Amendment to Births and Deaths Registration Ordinance (Cap. 174)

160. Second Schedule amended (forms)

Second Schedule, Form 18, Part III, paragraph 2(16)—

Repeal

“comprise a hospital, nursing home or maternity home registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“comprise—

- (a) a hospital within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;
- (b) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force; or
- (c) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force”.

Division 9—Amendments to Undesirable Medical Advertisements Ordinance (Cap. 231)

161. Section 3 amended (prohibition of advertisements relating to certain diseases; exceptions therefrom)

At the end of section 3—

Add

“(7) Subsection (1) does not apply to any publication of price information or historical statistics on fees and charges specified by the Director of Health under the Private Healthcare Facilities Ordinance (of 2017).”.

162. Section 5 amended (certain defences; provision as to Chinese medicine practitioners)

(1) Section 5(1)(c)—

Repeal subparagraph (i)

Substitute

“(i) any private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;”.

(2) Section 5(1)(c)—

Repeal subparagraph (ii).

Division 10—Amendment to Child Care Services Ordinance (Cap. 243)

163. Section 3 amended (application)

Section 3(1)(b)(ii)—

Repeal

“registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“licensed under the Private Healthcare Facilities Ordinance (of 2017)”.

Division 11—Amendments to Massage Establishments Ordinance (Cap. 266)

164. Section 3 amended (application of Ordinance)

(1) Section 3—

Repeal paragraph (a)

Substitute

“(a) a hospital or clinic managed or controlled by the Government or the Hospital Authority, or a private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) operated by a person licensed to operate it under that Ordinance;”.

(2) After section 3(aa)—

Add

“(ab) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;

(ac) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

Division 12—Amendment to Employees’ Compensation Ordinance (Cap. 282)

165. Section 3 amended (interpretation)

Section 3(1), definition of *hospital*—

Repeal

“registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

**Division 13—Amendments to Dangerous Goods (General)
Regulations (Cap. 295 sub. leg. B)**

166. Regulation 84 amended (general provisions relating to storage, conveyance and packing of corrosive substances)

(1) Regulation 84(6)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

(2) After regulation 84(6)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;

- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

167. Regulation 92 amended (general provisions relating to packing, conveyance and storage of poisonous substances)

- (1) Regulation 92(6)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 92(6)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

168. Regulation 99 amended (general provisions relating to packing, conveyance and storage in containers of dangerous goods in category 5)

- (1) Regulation 99(6)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 99(6)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

169. Regulation 139 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 6)

- (1) Regulation 139(6)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 139(6)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

170. Regulation 153 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 7)

- (1) Regulation 153(6)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 153(6)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

171. Regulation 159 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 8)

- (1) Regulation 159(5)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 159(5)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

172. Regulation 170 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 9)

- (1) Regulation 170(5)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 170(5)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;

- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

173. Regulation 176 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 10)

- (1) Regulation 176(6)(b)(i)—

Repeal

“hospital or maternity home in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

- (2) After regulation 176(6)(b)(i)—

Add

- “(ia) for use in and for the purposes of a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ib) for use in and for the purposes of a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

Division 14—Amendments to Dangerous Goods (Application and Exemption) Regulation 2012 (Cap. 295 sub. leg. E)

174. Section 2 amended (interpretation)

- (1) Section 2, definition of *medical establishment*—

Repeal paragraph (a)

Substitute

- “(a) a private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;”.

- (2) Section 2, definition of *medical establishment*, after paragraph (a)—

Add

- “(aa) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (ab) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459);”.

- (3) Section 2, definition of *medical establishment*—

Repeal paragraph (b).

- (4) Section 2, definition of *medical establishment*, paragraph (e)—

Repeal

- “and not bearing any title or description which includes the word “clinic” or “polyclinic” in the English language”.

**Division 15—Amendments to Medical Laboratory
Technologists (Registration and Disciplinary Procedure)
Regulations (Cap. 359 sub. leg. A)**

175. Schedule 4 amended (exemptions from the Ordinance)

(1) Schedule 4, item 6—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by an individual person and registered”

Substitute

“day procedure centre, or clinic, within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by an individual person licensed to operate it”.

(2) Schedule 4, item 7—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by a corporation and registered”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by a corporation licensed to operate it”.

(3) Schedule 4—

Repeal items 8, 9, 10 and 11.

**Division 16—Amendments to Occupational Therapists
(Registration and Disciplinary Procedure) Regulations
(Cap. 359 sub. leg. B)**

176. Schedule 4 amended (exemptions from the Ordinance)

(1) Schedule 4, item 3—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by an individual person and registered”

Substitute

“day procedure centre, or clinic, within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by an individual person licensed to operate it”.

(2) Schedule 4, after item 3—

Add

“3A. A scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted to an individual person under section 127 of that Ordinance is in force 21(1)

3B. A nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence issued or renewed to an individual person under that Ordinance is in force 21(1)”.

- (3) Schedule 4, item 4—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by a corporation and registered”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by a corporation licensed to operate it”.

- (4) Schedule 4, after item 4—

Add

“4A. A scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted to a corporation under section 127 of that Ordinance is in force 20 and 21(1)

4B. A nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence issued or renewed to a corporation under that Ordinance is in force 20 and 21(1)”.

- (5) Schedule 4—

Repeal items 5, 6, 7 and 8.

Division 17—Amendments to Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. H)

177. Schedule 5 amended (exemption from the Ordinance)

(1) Schedule 5, item 6—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by an individual and registered”

Substitute

“day procedure centre, or clinic, within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by an individual person licensed to operate it”.

(2) Schedule 5, after item 6—

Add

“6A. A scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted to an individual person under section 127 of that Ordinance is in force 21(1)

6B. A nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence issued or renewed to an individual person under that Ordinance is in force 21(1)”.

- (3) Schedule 5, item 7—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by a corporation and registered”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by a corporation licensed to operate it”.

- (4) Schedule 5, after item 7—

Add

“7A. A scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted to a corporation under section 127 of that Ordinance is in force 20 and 21(1)

7B. A nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence issued or renewed to a corporation under that Ordinance is in force 20 and 21(1)”.

- (5) Schedule 5—

Repeal items 8, 9, 10 and 11.

Division 18—Amendments to Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. J)

178. Schedule 4 amended (exemption from the Ordinance)

- (1) Schedule 4, item 5—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by an individual person and registered”

Substitute

“day procedure centre, or clinic, within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by an individual person licensed to operate it”.

- (2) Schedule 4, after item 5—

Add

“5A. A scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted to an individual person under section 127 of that Ordinance is in force 21(1)

5B. A nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence issued or renewed to an individual person under that Ordinance is in force 21(1)”.

- (3) Schedule 4, item 6—

Repeal

“hospital to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies carried on by a corporation and registered”

Substitute

“private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) and operated by a corporation licensed to operate it”.

- (4) Schedule 4, after item 6—

Add

“6A. A scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted to a corporation under section 127 of that Ordinance is in force 20 and 21(1)

6B. A nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence issued or renewed to a corporation under that Ordinance is in force 20 and 21(1)”.

- (5) Schedule 4—

Repeal items 7, 8, 9 and 10.

Division 19—Amendment to Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360)

179. Section 2 amended (interpretation)

Section 2(1), definition of *hospital*—

Repeal

“registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force”.

Division 20—Amendments to Smoking (Public Health) Ordinance (Cap. 371)

180. Section 2 amended (interpretation)

(1) Section 2, definition of *hospital*—

Repeal

“treatment, including a nursing home—”

Substitute

“treatment—”.

(2) Section 2, definition of *hospital*—

Repeal paragraph (a)

Substitute

“(a) for which a licence for a hospital within the meaning of the Private Healthcare Facilities Ordinance (of 2017) under that Ordinance is in force; or”.

- (3) Section 2, definition of *maternity home*—
Repeal paragraph (a).

181. Schedule 2 amended (designated no smoking areas and exempt areas)

- (1) Schedule 2, Part 1—
Repeal item 13.
- (2) Schedule 2, Part 2, item 3(h)—
Repeal the semicolon
Substitute a full stop.
- (3) Schedule 2, Part 2—
Repeal item 3(i).

Division 21—Amendments to Electricity (Wiring)
Regulations (Cap. 406 sub. leg. E)

182. Regulation 20 amended (periodic inspection, testing and certification)

- (1) Regulation 20(4)(b)—
Repeal
“hospital or maternity home, as those terms are defined in section 2 of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”
Substitute
“private healthcare facility that is a hospital as defined in the Private Healthcare Facilities Ordinance (of 2017)”.

(2) After regulation 20(4)(b)—

Add

- “(ba) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force;
- (bb) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459);”.

Division 22—Amendment to Administrative Appeals Board Ordinance (Cap. 442)

183. Schedule amended

The Schedule—

Repeal item 62.

Division 23—Amendment to Coroners Ordinance (Cap. 504)

184. Schedule 1 amended

Schedule 1, Part 1, paragraph 16—

Repeal

“comprise a hospital, nursing home or maternity home registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)”

Substitute

“comprise—

- (a) a hospital within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;
- (b) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force; or
- (c) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force”.

Division 24—Amendment to Legislative Council Ordinance (Cap. 542)

185. Section 20I amended (composition of the health services functional constituency)

Section 20I(l)—

Repeal subparagraph (ii)

Substitute

- “(ii) hospitals within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for each of which a licence under that Ordinance is in force;”.

Division 25—Amendment to Chinese Medicine Ordinance (Cap. 549)

186. Section 170 repealed (interpretation)

Section 170—

Repeal the section.

Division 26—Amendment to Chinese Medicines Regulation (Cap. 549 sub. leg. F)

187. Section 12 amended (additional duties of holders of wholesaler licences in Chinese herbal medicines in respect of Schedule 1 medicines—selling restrictions)

Section 12—

Repeal paragraph (i)

Substitute

“(i) a hospital within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force.”.

Division 27—Amendments to Human Reproductive Technology Ordinance (Cap. 561)

188. Section 15A amended (prohibition against publishing or distributing advertisements promoting sex selection services)

(1) Section 15A(9), Chinese text, definition of 指明人士, paragraph (b)—

Repeal

“或院所”

Substitute

“、機構或院所”。

- (2) Section 15A(9), definition of *specified person*, paragraph (b)—

Repeal subparagraph (ii)

Substitute

“(ii) a private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;”.

- (3) Section 15A(9), definition of *specified person*, paragraph (b)—

Repeal subparagraph (iii).

**Division 28—Amendments to Human Reproductive
Technology (Licensing) Regulation (Cap. 561 sub. leg. A)**

189. Section 4 amended (classes of premises)

- (1) Section 4—

Repeal paragraph (a).

- (2) Section 4—

Repeal paragraph (b)

Substitute

“(b) a private healthcare facility within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;”.

**Division 29—Amendment to Drug Dependent Persons
Treatment and Rehabilitation Centres (Licensing) Ordinance
(Cap. 566)**

190. Section 3 amended (application of this Ordinance)

Section 3—

Repeal subsection (2).

**Division 30—Amendments to Prevention and Control of
Disease Regulation (Cap. 599 sub. leg. A)**

**191. Section 35 amended (no infected dead body to be dealt with
otherwise)**

(1) Section 35(1)(b)(ii)—

Repeal

“or”.

(2) Section 35(1)(b)—

Repeal subparagraph (iii)

Substitute

“(iii) a hospital within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which a licence under that Ordinance is in force;”.

(3) After section 35(1)(b)(iii)—

Add

“(iv) a scheduled nursing home within the meaning of the Private Healthcare Facilities Ordinance (of 2017) for which an exemption granted under section 127 of that Ordinance is in force; or

- (v) a nursing home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force;”.

Division 31—Amendments to Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)

192. Section 3 amended (application)

Section 3(1)—

Repeal paragraph (b).

193. Section 4 amended (offence of operating residential care homes for PWDs without licence)

Section 4(1)—

Repeal

“5 and 6”

Substitute

“5, 6 and 6A”.

194. Section 6A added

Part 2, after section 6—

Add

“6A. Certain nursing homes excepted from application of section 4

Section 4 does not apply to a residential care home for PWDs that is also a *scheduled nursing home* (as defined by section 124 of the Private Healthcare Facilities Ordinance (of 2017)) if an exemption granted under section 127 of that Ordinance is in force in respect of the residential care home for PWDs.”.

**Division 32—Amendments to Electronic Health Record
Sharing System Ordinance (Cap. 625)**

195. Section 19 amended (application by healthcare providers for registration)

(1) Section 19(5)—

Repeal paragraph (a)

Substitute

“(a) is licensed under the Private Healthcare Facilities Ordinance (of 2017) in respect of one private healthcare facility;”.

(2) Section 19(5)—

Repeal paragraph (b).

Schedule 1

[ss. 4, 12 & 123]

Premises Excluded from Definition of *Hospital*

1. A residential care home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence or a certificate of exemption under that Ordinance is in force.
 2. A treatment centre within the meaning of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566) for which a licence or a certificate of exemption under that Ordinance is in force.
 3. A residential care home for PWDs within the meaning of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) for which a licence or a certificate of exemption under that Ordinance is in force.
 4. A boarding school within the meaning of the Education Regulations (Cap. 279 sub. leg. A).
-

Schedule 2

[ss. 2, 15, 103 & 123]

Classes of Specialized Services

Column 1	Column 2	Column 3
Class of specialized services	Particular medical procedures	Exceptions to medical procedures described in column 2
1. Surgical procedure	<div>(a) Creation of surgical wound to allow access to major body cavity or viscus, including access to central large joints</div> <div>(b) Removal of tissue or fluid, or both, of a total volume of 500 mL or above</div> <div>(c) Removal of tissue or fluid, or both, of any volume from deep seated organ in children under the age of 12 years</div> <div>(d) Removal of tissue or fluid, or both, of any volume from thoracic cavity</div>	<div>(i) Needle injection</div> <div>(ii) Creation of surgical wound to allow access to peripheral joints distal to knee and elbow</div> <div>Suprapubic tap</div> <div>Diagnostic pleural tapping</div>

Column 1	Column 2	Column 3
Class of specialized services	Particular medical procedures	Exceptions to medical procedures described in column 2
	(e) Insertion of prosthesis or implant	<div><div>(i)</div>Insertion of prosthesis in ear, nose and throat cavity</div> <div><div>(ii)</div>Insertion of dental prosthesis and implant</div> <div><div>(iii)</div>Insertion of facial implant</div> <div><div>(iv)</div>Insertion of extra-ocular prosthesis and implant</div> <div><div>(v)</div>Insertion of intrauterine or vaginal prosthesis</div> <div><div>(vi)</div>Insertion of bulking agent of urethra</div> <div><div>(vii)</div>Insertion of prostatic urethral stent</div> <div><div>(viii)</div>Insertion of urethral sling</div> <div><div>(ix)</div>Insertion of testicular prosthesis</div>

Column 1 Class of specialized services	Column 2 Particular medical procedures	Column 3 Exceptions to medical procedures described in column 2
	(f) Core biopsy	(i) Core biopsy of superficial tissue excluding thyroid or salivary glands (ii) Core biopsy of superficial and peripheral muscle
	(g) Biopsy of deep- seated organ	
	(h) Lumbar puncture	
	(i) Transplant of any cell, tissue or organ, including autograft, allograft, xenograft, processed tissue or blood products (including platelet- rich plasma) and skin flap (including face lift)	(i) Skin graft less than 1% of total body surface area (ii) Transplant of conjunctival autograft (iii) Transplant procedure which primarily involves dento-alveolar region
	(j) Termination of pregnancy	
	(k) Dilation and curettage	

Schedule 2

C1945

Column 1 Class of specialized services	Column 2 Particular medical procedures	Column 3 Exceptions to medical procedures described in column 2
	(l) Circumcision with use of skin sutures in paediatric patients	
2. Endoscopic procedure	(a) Endoscopic procedure requiring image guidance	
	(b) Endoscopic procedure involving invasion of sterile cavity or gastrointestinal tract	Cystoscopy, and cystoscopic removal of ureteric catheter or stent, but not including other therapeutic cystoscopic procedure
	(c) Therapeutic endoscopic procedure	Minor therapeutic procedure such as removal of foreign body
3. Dental procedure	Maxillofacial surgical procedure that extends beyond dento-alveolar process, including but not limited to—	(i) Temporomandibular arthrocentesis (ii) Temporomandibular arthroscopy

Column 1	Column 2	Column 3
Class of specialized services	Particular medical procedures	Exceptions to medical procedures described in column 2
	(a) Maxillary osteotomies and mandibular osteotomies (including angle reduction)	
	(b) Open reduction and fixation of complex maxillofacial fracture	
	(c) Surgical treatment of diagnosed malignancies	
	(d) Surgical treatment of complex haemangioma	
	(e) Surgery involving major salivary glands	
	(f) Open surgery of temporomandibular joint	

Column 1 Class of specialized services	Column 2 Particular medical procedures	Column 3 Exceptions to medical procedures described in column 2
	(g) Harvesting of autogenous bone from outside oral cavity	
	(h) Primary cleft lip and palate surgery	
4. Chemo-therapy	Administration of chemotherapy (cytotoxic) through parenteral routes regardless of therapeutic indication	
5. Haemo-dialysis	Haemodialysis	
6. Inter-ventional radiology and lithotripsy	(a) Extracorporeal shock wave lithotripsy (ESWL) requiring image guidance	

Column 1 Class of specialized services	Column 2 Particular medical procedures	Column 3 Exceptions to medical procedures described in column 2
	(b) Image-guided core biopsy	(i) Image-guided core biopsy of superficial tissues excluding thyroid or salivary glands (ii) Image-guided core biopsy of superficial and peripheral muscle
7. Anaesthetic procedure	(a) General anaesthesia (b) Neuroaxial blocks (including spinal, epidural and caudal) (c) Major plexus block (including brachial, lumbar and sacral) (d) Intravenous regional anaesthesia (e) Intercostal nerve block (f) Major nerve block—	

Column 1	Column 2	Column 3
Class of specialized services	Particular medical procedures	Exceptions to medical procedures described in column 2
	(i) Glossopharyngeal nerve, vagus nerve or their terminal branches (including superior, inferior and recurrent laryngeal nerves);	
	(ii) Sciatic and femoral nerves;	
	(iii) Posterior tibial nerve, pudendal nerve or para-cervical block	
	(g) Use of sedative or analgesic drugs with reasonable expectation that it will, in the manner used, result in deep sedation for a significant percentage of a group of patients	
	(h) Tumescant anaesthesia	

Schedule 3

[ss. 25, 108, 123, 125, 134 &
135]

**Fees Payable in Relation to Applications for Licences
and Other Matters under Ordinance**

Column 1 Item	Column 2 Particular	Column 3 Fee \$
1.	Issue of licence for a hospital with—	
	(a) up to 200 beds	426,000
	(b) 201 to 500 beds	605,300
	(c) more than 500 beds	755,900
2.	Extension of a hospital block or redevelopment of existing hospital block by—	
	(a) up to 200 beds	426,000
	(b) 201 to 500 beds	605,300
	(c) more than 500 beds	755,900
3.	Issue of licence for a day procedure centre with—	
	(a) up to 5 rooms that are doctor or dentist consultation rooms, designated rooms for medical procedures or operating rooms	17,650

Private Healthcare Facilities Bill

Schedule 3

C1957

Column 1 Item	Column 2 Particular	Column 3 Fee \$
	(b) 6 to 10 rooms that are doctor or dentist consultation rooms, designated rooms for medical procedures or operating rooms	22,850
	(c) more than 10 rooms that are doctor or dentist consultation rooms, designated rooms for medical procedures or operating rooms	28,400
4.	Issue of licence for a clinic with—	
	(a) up to 5 rooms that are doctor or dentist consultation rooms or designated rooms for medical procedures	8,840
	(b) 6 to 10 rooms that are doctor or dentist consultation rooms or designated rooms for medical procedures	9,860
	(c) more than 10 rooms that are doctor or dentist consultation rooms or designated rooms for medical procedures	10,900
5.	Issue of licence for a scheduled clinic	125

Private Healthcare Facilities Bill

Schedule 3

C1959

Column 1	Column 2	Column 3
Item	Particular	Fee \$
6.	Issue of licence for a health services establishment of category 1 with—	
	(a) up to 25 beds	21,500
	(b) 26 to 50 beds	24,950
	(c) more than 50 beds	30,350
7.	Variation of service by a hospital for a change of facility service without variation in hospital beds	20,250
8.	Variation of service by a hospital for a change of facility service with variation in hospital beds by—	
	(a) up to 25 beds	20,250
	(b) 26 to 50 beds	24,750
	(c) more than 50 beds	29,750
9.	Variation of service by a day procedure centre for a change in class of specialized service, or a change in total number of doctor or dentist consultation rooms, designated rooms for medical procedures and operating rooms by—	
	(a) 0 to 5 rooms	8,860
	(b) more than 5 rooms	11,100

Private Healthcare Facilities Bill

Schedule 3

C1961

Column 1 Item	Column 2 Particular	Column 3 Fee \$
10.	Variation of service by a clinic for a change in total number of doctor or dentist consultation rooms and designated rooms for medical procedures by—	
	(a) 0 to 5 rooms	4,480
	(b) more than 5 rooms	5,350
11.	Variation of service by a health services establishment of category 1 for a change in number of beds by—	
	(a) 0 to 25 beds	11,000
	(b) 26 to 50 beds	13,150
	(c) more than 50 beds	15,300
12.	Renewal of licence for a hospital	5,020
13.	Renewal of licence for a day procedure centre	2,180
14.	Renewal of licence for a clinic	945
15.	Renewal of licence for a scheduled clinic	125
16.	Renewal of licence for a health services establishment of category 1	2,240

Private Healthcare Facilities Bill

Schedule 3

C1963

<hr/>		
Column 1	Column 2	Column 3
Item	Particular	Fee
		\$
17.	Issue of a duplicate of a certificate of licence or a letter of exemption	180
18.	Amendment of licence apart from the above	365
<hr/>		

Schedule 4

[ss. 9 & 123]

Premises in which Outreach Medical Services are Provided as Part of Healthcare Services

1. A place of refuge specified in the Schedule to the Protection of Children and Juveniles (Places of Refuge) Order (Cap. 213 sub. leg. B).
2. A child care centre within the meaning of the Child Care Services Ordinance (Cap. 243) for which a certificate of registration or a certificate of exemption under that Ordinance is in force.
3. A special school within the meaning of the Education Ordinance (Cap. 279) for which a certificate of registration or a certificate of provisional registration under that Ordinance is in force.
4. A residential care home within the meaning of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) for which a licence under that Ordinance is in force.
5. A treatment centre within the meaning of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566) for which a licence or a certificate of exemption under that Ordinance is in force.

6. A residential care home for PWDs within the meaning of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) for which a licence or a certificate of exemption under that Ordinance is in force.
 7. A unit for residential care services for children and youth subvented by the Social Welfare Department.
-

Schedule 5

[ss. 2 & 123]

Scheduled Clinics

(as at 1 April 2017)

	Column 1	Column 2
	Name of clinic	Address
1.	Beautiful Gate Baptist Clinic	G/F, Moon Lok Dai Ha, 167 Sha Tsui Road, Tsuen Wan, New Territories
2.	Chiaphua Industries Limited Workers Clinic	4/F, 2-4 Dai Wang Street, Tai Po Industrial Estate, Tai Po, New Territories
3.	Chung Sing Benevolent Society Clinic	Flat C, 1/F, 379 Lockhart Road, Wan Chai, Hong Kong
4.	Clinic of the Association of the Natives of Tung Koon, Shatin	1/F, 6 Portland Street, Kowloon
5.	Hong Kong Baptist Mission Clinic	1/F, 32A Belcher's Street, Kennedy Town, Hong Kong
6.	Hong Kong Baptist Mission Clinic	1/F, 100 Chung On Street, Tsuen Wan, New Territories

Private Healthcare Facilities Bill

Schedule 5

C1971

	Column 1 Name of clinic	Column 2 Address
7.	Hong Kong Baptist Mission Clinic	G/F, 36 Yin Hing Street, San Po Kong, Kowloon
8.	Hong Kong Baptist Mission Clinic	Room 303, 1/F, Kam Yuck Building, Wai Chi Lane, Shek Kip Mei, Kowloon
9.	Hong Kong & Kowloon Inhabitants' Main Association Clinic	Room 6A, 6/F, Toi Shan Centre, 128 Johnston Road, Wan Chai, Hong Kong
10.	Kam Tin Clinic	1/F, 89 Tai Hong Wai, Kam Tin Main Road, Kam Tin, New Territories
11.	Kin Hong Medical Clinic	Shop E, G/F, Man On Building, 2-6 Man On Street, Tai Kok Tsui, Kowloon
12.	Kwai Chung Clinic	Shop I1 & I2, G/F, Tak Tai Building, 19B Tai Ha Street, Tai Wo Hau, New Territories
13.	Kwok's Clansmen Association Living Water Clinic	G/F, 16 Waterloo Road, Yau Ma Tei, Kowloon
14.	Lee Man Clinic	G/F, 11B Whampoa Street, Hung Hom, Kowloon

Private Healthcare Facilities Bill

Schedule 5

C1973

	Column 1 Name of clinic	Column 2 Address
15.	On On Clinic	G/F, 30 Shung Wah Street, Fung Wong Village, Kowloon
16.	Po Chai Church Clinic	G/F, 75 First Street, Sai Ying Pun, Hong Kong
17.	Saint Yen Clinic	Shop No. 71, G/F, Manor Centre, 213 Un Chau Street, Kowloon
18.	Shing Yan Clinic	Room 204, 2/F, Chung Wo Commercial Centre, 42-46 Shanghai Street, Kowloon
19.	Tai Kok Tsui Clinic	1/F, 47A Tai Kok Tsui Road, Kowloon
20.	Tai Po Clinic	M/F, 99 Kwong Fuk Road, Tai Po Market, New Territories
21.	Tung Tou Clinic	Flat B, 1/F, Fu Yuen House, 25 Yin Hing Street, San Po Kong, Kowloon
22.	Wong Tai Sin Clinic	1/F, 48 Ming Fung Street, Wong Tai Sin, Kowloon
23.	Wong Tai Sin Estate Kaifong Welfare Association Clinic	No. 4, G/F, Lung Lok House, Wong Tai Sin Lower Estate, Wong Tai Sin, Kowloon

Private Healthcare Facilities Bill

Schedule 5

C1975

	Column 1	Column 2
	Name of clinic	Address
24.	Wood Man Church Clinic	Flat B, 1/F, Hong Ning Mansion, 56-58 Nga Tsin Wai Road, Kowloon
25.	Yee On Clinic	Flat J, 2/F, Yen Dack Building, 103-113 Chun Yeung Street, North Point, Hong Kong
<hr/>		

Schedule 6

[ss. 2 & 123]

Healthcare Professionals

1. A registered pharmacist within the meaning of the Pharmacy and Poisons Ordinance (Cap. 138).
2. A registered dentist within the meaning of the Dentists Registration Ordinance (Cap. 156).
3. An enrolled dental hygienist within the meaning of the Ancillary Dental Workers (Dental Hygienists) Regulations (Cap. 156 sub. leg. B).
4. A registered medical practitioner within the meaning of the Medical Registration Ordinance (Cap. 161).
5. A registered midwife within the meaning of the Midwives Registration Ordinance (Cap. 162).
6. A registered nurse or enrolled nurse within the meaning of the Nurses Registration Ordinance (Cap. 164).
7. A registered medical laboratory technologist within the meaning of the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. A).
8. A registered occupational therapist within the meaning of the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. B).

9. A registered optometrist within the meaning of the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. F) whose name has been entered in Part I of the register as defined by section 2 of that Regulation.
 10. A registered radiographer within the meaning of the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. H).
 11. A registered physiotherapist within the meaning of the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. J).
 12. A registered chiropractor within the meaning of the Chiropractors Registration Ordinance (Cap. 428).
 13. A listed or registered Chinese medicine practitioner within the meaning of the Chinese Medicine Ordinance (Cap. 549).
-

Schedule 7

[ss. 92 & 123]

Expressions Not to be Used in Titles or Descriptions of Premises (other than Permitted Facility)

Part 1

Expressions Describing Private Healthcare Facility

1. hospital
2. day procedure centre
3. clinic
4. health services establishment
5. 醫院
6. 日間醫療中心
7. 診所
8. 衛生服務機構

Part 2

Other Expressions Relating to Private Healthcare Facility

1. clinical
2. curative
3. dental
4. dentistry
5. diagnosis
6. diagnostic
7. health care
8. healthcare
9. medical
10. medicine
11. surgery
12. surgical
13. therapeutic
14. treatment

-
- 15. 手術
 - 16. 牙科
 - 17. 外科
 - 18. 治療
 - 19. 診療
 - 20. 診斷
 - 21. 醫科
 - 22. 醫學
 - 23. 醫療
-

Schedule 8

[ss. 7, 13, 101 & 123]

Health Services Establishment

Column 1	Column 2
Category	Description
1.	Premises of an education or scientific (or both) research institution in which medical services with lodging are provided to patients for the purpose of conducting clinical trials.

Schedule 9

[ss. 123 & 124]

Scheduled Nursing Homes

(as at 1 April 2017)

Column 1		Column 2
Name of Nursing Home		Address
1.	Alice Ho Miu Ling Nethersole Nursing Home	2-6/F and 7/F (Part), Kowloon Bay Health Centre, 9 Kai Yan Street, Kowloon Bay, Kowloon
2.	Buddhist Li Chong Yuet Ming Nursing Home for the Elderly	5 Po Ping Road, Sheung Shui, New Territories
3.	Haven of Hope Nursing Home	23 Haven of Hope Road, Tseung Kwan O, New Territories
4.	Haven of Hope Sister Annie Skau Holistic Care Centre	19-21 Haven of Hope Road, Tseung Kwan O, New Territories
5.	Home of Loving Faithfulness	7 Castle Peak Road, Kwu Tung, Sheung Shui, New Territories
6.	Hong Kong Sheng Kung Hui Nursing Home	6 Chun Yan Street, Wong Tai Sin, Kowloon

Private Healthcare Facilities Bill

Schedule 9

C1991

	Column 1	Column 2
	Name of Nursing Home	Address
7.	Jockey Club Home for Hospice	18 A Kung Kok Shan Road, Sha Tin, New Territories
8.	Po Leung Kuk Wong Chuk Hang Extended Care Home	1/F, Block A, 2 Wong Chuk Hang Path, Wong Chuk Hang, Hong Kong
9.	Pok Oi Hospital Tuen Mun Nursing Home	2 Siu Lun Street, Tuen Mun, New Territories
10.	The Hong Kong Anti-cancer Society Jockey Club Cancer Rehabilitation Centre	30 Nam Long Shan Road, Wong Chuk Hang, Hong Kong
11.	Yan Chai Nursing Home	4-8/F, Yan Chai Hospital Multi-Services Complex, 18 Yan Chai Street, Tsuen Wan, New Territories

Explanatory Memorandum

The objects of this Bill are to provide for the regulation of private healthcare facilities, to repeal the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) (**Cap. 165**) and provide for the transfer of nursing homes for elderly persons to be regulated under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) (**Cap. 459**), to repeal the Medical Clinics Ordinance (Cap. 343) (**Cap. 343**) and its subsidiary legislation, and to provide for incidental and related matters.

2. The Bill is divided into 13 Parts and contains 9 Schedules.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.
4. Clause 2 contains definitions that are necessary for the interpretation of the Bill, including the expressions *chief medical executive*, *Complaints Committee*, *exempted clinic*, *facility complaint*, *licence*, *licensee*, *Medical Advisory Committee*, *medical service*, *minor medical procedure*, *operator*, *outreach medical services*, *patient*, *permitted facility*, *preliminary processing panel*, *private healthcare facility*, *provisional licence*, *request*, *scheduled clinic*, *scheduled medical procedure*, *scheduled nursing home* and *small practice clinic*. The clause also gives meaning to the expression “a person serving a clinic”, and adopts the meaning of *substitute decision maker* in the Electronic Health Record Sharing System Ordinance (Cap. 625) for the Bill.

5. Clause 3 gives the meaning of a *private healthcare facility* which is a hospital, day procedure centre, clinic or health services establishment not managed or controlled by the Government, the Hong Kong Garrison, the Hospital Authority or the Board of Governors of The Prince Philip Dental Hospital, and which does not include premises that are temporarily used for emergency or rescue purposes.
6. Clauses 4, 5, 6 and 7 respectively give the expressions *hospital*, *day procedure centre*, *clinic* and *health services establishment* specific meanings under the Bill.
7. Clause 8 deals with the interpretation of premises in relation to a private healthcare facility.
8. Clause 9 sets out the meaning of *outreach medical services*.

Part 2—Prohibition and Display Requirement

9. Clause 10 prohibits a person from operating a private healthcare facility without a licence and makes contravention an offence.
10. Clause 11 obliges the licensee of a private healthcare facility to display the current certificate of licence for the facility in a conspicuous place in the facility and makes contravention an offence.
11. Clause 12 makes it an offence for a person who is not a healthcare professional to perform, on premises other than certain excepted premises, certain treatment or procedure causing personal injury to another person.

Part 3—Licensing Scheme

Division 1—Issue of Licence

12. Clause 13 deals with an application for a licence. An applicant must state in the application the type of private healthcare facility for which the licence is sought, namely, a hospital, day procedure centre, clinic or health services establishment. The clause also deals with other matters relating to an application.
13. Clause 14 sets out who may be an applicant for a licence under the Bill.
14. Clause 15 enables the Director of Health (***Director***) to decide whether a procedure is a medical procedure under column 2 or 3 of Schedule 2. A medical procedure under column 2 may be carried out in a hospital or a day procedure centre in an ambulatory setting, but may not be carried out in a clinic. The medical procedures under column 3 are the exceptions to the medical procedures described in column 2 which may be carried out in a clinic.
15. Clause 16 empowers the Director to inspect the premises of a private healthcare facility to which an application relates, and to require an applicant to make any amendment to the application, or alteration or improvement to the premises.
16. Clause 17 deals with issuing, or refusing to issue, a licence.
17. Clause 18 sets out the grounds for the Director to refuse to issue a licence.
18. Clause 19 provides for the validity period of a licence as follows—

- (a) a licence for a hospital—not more than 2 years as specified in the licence;
- (b) a licence for a day procedure centre—not more than 3 years as specified in the licence;
- (c) a licence for a clinic (other than a scheduled clinic)—not more than 5 years as specified in the licence;
- (d) a licence for a scheduled clinic—not more than 1 year as specified in the licence;
- (e) a licence for a health services establishment—a period specified in the licence.

Division 2—Renewal of Licence

- 19. Clauses 20 and 21 deal with an application for renewal of a licence, and renewal or refusal of renewal of a licence. The Director may refuse to renew a licence only on a ground specified in clause 38.
- 20. Clause 22 deals with the situation where a licence expires before the application for its renewal is determined. The licence remains in effect pending the determination.

Division 3—Variation of Licence

- 21. Clause 23 deals with an application to vary the scale or scope of the services specified in a licence for a private healthcare facility.
- 22. Clause 24 deals with an application to vary the class of specialized service specified in the licence of a private healthcare facility.

Division 4—General Provisions about Applications

- 23. Clause 25 sets out the requirements for an application made under Part 3.
- 24. Clause 26 sets out the circumstances in which an application made under Part 3 is taken to have been withdrawn by the applicant.
- 25. Clause 27 obliges the Director to notify a person who has made an application under Part 3 in writing of the reasons for refusing the application.

Division 5—Suspension or Cancellation of Licence

- 26. Clause 28 enables the Director to suspend or cancel a licence. A suspension or cancellation may only be made on a ground specified in clause 38.
- 27. Clause 29 enables the Director to suspend a facility service in a private healthcare facility only on a ground specified in clause 38(1).
- 28. Clause 30 deals with a notice of an intended suspension or cancellation being given by the Director.
- 29. Clause 31 gives a licensee of a private healthcare facility an opportunity to make representations to object to a suspension or cancellation of a licence, or a suspension of a facility service.
- 30. Clause 32 makes it an offence for a licensee of a private healthcare facility not to comply with a suspension order for operating a type of private healthcare facility not authorized under the licence.

31. Clause 33 makes it an offence for a licensee of a private healthcare facility not to comply with a suspension order on a ground specified in clause 38 (other than that specified in clause 38(2)(d)).
32. Clause 34 makes it an offence for a licensee of a private healthcare facility not to comply with a suspension order for a particular facility service.
33. Clause 35 provides for the cancellation of a licence at the licensee's request.
34. Clause 36 provides for the cancellation of a licence on the death of the licensee who operated the private healthcare facility as a sole proprietor, and provides for an arrangement to defer the cancellation of a licence.

Division 6—General Provisions about Licences

35. Clause 37 deals with the amendment of the conditions of a licence.
36. Clause 38 sets out the grounds for the Director to—
 - (a) refuse to renew a licence (clause 21(2));
 - (b) refuse to vary the scale or scope of the services specified in the licence for a private healthcare facility (clause 23(5));
 - (c) refuse to vary the class of specialized service specified in the licence for a private healthcare facility (clause 24(5));
 - (d) suspend or cancel a licence (clause 28(2));
 - (e) suspend a facility service (clause 29(2)); or

- (f) amend the conditions of a licence (clause 37(1)).

Division 7—Right of Appeal

37. Clause 39 provides for an appeal against a decision of the Director specified in the clause to be made to the Administrative Appeals Board.
38. Clause 40 suspends the effect of a decision under appeal except for the circumstances specified in the clause.

Part 4—Exemption of Small Practice Clinics

39. Clause 41 sets out the meaning of a *small practice clinic* which is a clinic operated by—
- (a) an individual as a sole proprietor;
 - (b) a partnership of not more than 5 partners; or
 - (c) a company with not more than 5 directors.
40. Clause 42 provides that a person who operates or intends to operate a small practice clinic may make a request to the Director in the specified form and way for a letter of exemption.
41. Clause 43 enables the Director to issue a letter of exemption in respect of a small practice clinic exempting its operator from licensing. The Director must refuse to issue a letter of exemption if the Director considers it inappropriate for the clinic to be an exempted clinic.

42. Clause 44 requires the operator of a small practice clinic to give notice in writing to the Director under certain circumstances.
43. Clause 45 deals with the revocation of an exemption under clause 43.
44. Clause 46 sets out the grounds for the Director to revoke an exemption under clause 45.

Part 5—Management of Private Healthcare Facilities

Division 1—Licensees

45. Clause 47 sets out the general responsibilities of licensees of private healthcare facilities.
46. Clause 48 obliges the licensee of a private healthcare facility to provide to the Director any information or document the Director may consider necessary for performing the Director's functions under the Bill.

Division 2—Chief Medical Executives

47. Clause 49 requires the licensee of a private healthcare facility to appoint a chief medical executive (***chief medical executive***) to take charge of the day to day administration of the facility, and makes it an offence to contravene the requirement.
48. Clause 50 allows the appointment of a single chief medical executive for 3 or more clinics operated at the same time by the same licensee.

49. Clause 51 sets out the general requirements for the chief medical executive of a private healthcare facility.
50. Clause 52 sets out the additional requirements for the chief medical executives of hospital.
51. Clause 53 sets out the additional requirements for the chief medical executives of day procedure centres or clinics.
52. Clause 54 sets out an additional requirement for a private healthcare facility of combined practices. The licensee of the facility must also appoint a registered dentist to assist the chief medical executive (who is a registered medical practitioner) to administer a dental practice.
53. Clause 55 sets out the responsibilities of chief medical executives.

Division 3—Medical Advisory Committees

54. Clause 57 requires the licensee of a hospital or certain clinics to establish a Medical Advisory Committee (***Medical Advisory Committee***), and makes it an offence to contravene the requirement.
55. Clause 58 sets out the function of a Medical Advisory Committee.
56. Clause 59 requires the licensee and chief medical executive of a private healthcare facility to implement the advice of its Medical Advisory Committee.
57. Clause 60 obliges the licensee of a private healthcare facility to provide certain reports and information to the Director.

Division 4—Price Transparency

- 58. Clause 61 requires the licensee of a private healthcare facility to make available to the public certain price information.
- 59. Clause 62 requires the licensee of a hospital to put in place a budget estimate system for patients.
- 60. Clause 63 requires the licensee of a hospital to publish historical statistics on the fees and charges for treatments and procedures.

Division 5—Complaints Management

- 61. Clause 64 requires the licensee of a private healthcare facility to put in place a complaints handling procedure to deal with complaints received against the facility.
- 62. Clause 65 deals with the situation in which a complaint against a private healthcare facility has been made to the Committee on Complaints against Private Healthcare Facilities (***Complaints Committee***).

Division 6—Miscellaneous Operational Matters

- 63. Clause 66 requires a private healthcare facility for which a licence is in force or an exemption under clause 43 is in force (***permitted facility***) to be separated from any premises providing unrelated services.
- 64. Clause 67 requires a permitted facility to have a direct and separate entrance not shared with, or involving passing through, any premises providing unrelated services.

65. Clause 68 deals with maximum periods of continuous confinement of patients for certain private healthcare facilities.
66. Clause 69 requires a hospital to have at least 1 registered medical practitioner resident in the hospital at all times.
67. Clause 70 provides that certain names or descriptions should not be used for the rooms of certain private healthcare facilities.

Part 6—Complaints against Private Healthcare Facilities

Division 1—Committee on Complaints against Private Healthcare Facilities

68. Clause 71 provides for the establishment of the Complaints Committee.
69. Clause 72 provides for the appointment of a secretary and a legal adviser for the Complaints Committee.
70. Clause 73 sets out the functions of the Complaints Committee.
71. Clause 74 deals with the meetings of the Complaints Committee.
72. Clause 75 requires a member of the Complaints Committee to declare an interest in a complaint to the Committee.
73. Clause 76 enables the Complaints Committee to transact its business by circulation of papers.

Division 2—Preliminary Processing Panels and Case Panels

- 74. Clause 77 provides for the appointment of preliminary processing panels under the Complaints Committee.
- 75. Clause 78 provides for the appointment of case panels under the Complaints Committee.
- 76. Clause 79 sets out the functions of a case panel.

Division 3—Confidentiality of Information and Protection of Members of Complaints Committee

- 77. Clause 80 deals with confidentiality of any information or document obtained by a member or the secretary of the Complaints Committee for considering a facility complaint (*facility complaint*).
- 78. Clause 81 provides for the protection of the members of the Complaints Committee in performing functions of the Committee.

Division 4—Making and Dealing with Complaints

- 79. Clause 82 deals with the making of a facility complaint to the Complaints Committee against a private healthcare facility.
- 80. Clause 83 deals with the preliminary processing of a facility complaint.
- 81. Clause 84 requires a case panel to be appointed to consider a facility complaint unless there are grounds for the Complaints Committee not to.

82. Clause 85 enables a case panel to make a recommendation for alternative dispute resolution.
83. Clause 86 requires a case panel to make recommendations to the Complaints Committee after considering a facility complaint.
84. Clause 87 sets out the actions to be taken by the Complaints Committee after considering the recommendations made by a case panel.

Division 5—Investigation Powers of Complaints Committee

85. Clause 88 empowers the Complaints Committee, its preliminary processing panels and its case panels to obtain information and documents.
86. Clause 89 enables the Complaints Committee and its case panels to conduct interviews.
87. Clause 90 requires the Complaints Committee and its case panels to keep records of interviews.
88. Clause 91 enables the Complaints Committee and its case panels to obtain professional opinions.

Part 7—Miscellaneous Offences and Related Provisions

Division 1—Miscellaneous Offences

89. Clause 92 prohibits the use of certain titles or descriptions, and makes contravention an offence.

90. Clause 93 makes it an offence for a person to make false or misleading statements or representations in an application made under the Bill or in a request under clause 42, or to make false or misleading statements or representations to the Complaints Committee.

Division 2—Other Matters Relating to Offences

91. Clause 94 deals with offences committed by bodies corporate or persons as members of unincorporated bodies.
92. Clause 95 provides a defence of due diligence for an offence under the Bill.
93. Clause 96 deals with compounding of offences under the Bill.
94. Clause 97 states the time limit for prosecution under the Bill.

Part 8—Administration, Enforcement and Miscellaneous Provisions

Division 1—Administration

95. Clause 98 deals with written authorization of public officers by the Director in exercising the Director's powers under the Bill.
96. Clause 99 enables the Director to appoint an advisory committee.
97. Clause 100 enables the Director to pay fees and allowances to a member of a committee appointed under the Bill.
98. Clause 101 enables the Secretary for Food and Health (**Secretary**) to specify, by notice published in the Gazette, a category of health services establishment in Schedule 8.

99. Clause 102 enables the Director to issue a code of practice, and clause 103 empowers the Director to specify in a code of practice the medical procedures that may only be carried out in hospitals.
100. Clauses 104 and 105 enable the Director to give directions and grant exemptions.
101. Clause 106 enables the Director to specify forms.
102. Clause 107 requires the Director to establish and maintain certain registers.
103. Clause 108 deals with the issue of a duplicate of a certificate of licence or a letter of exemption under clause 43.
104. Clause 109 provides for the penalty for late payment of fees, and clause 110 provides that a fee paid under the Bill is not refundable.

Division 2—Powers of Enforcement

105. Clause 112 empowers the Director to obtain information and documents, and makes it an offence for a person failing to provide the information or documents, or making a false or misleading statement in producing or providing the information or documents.
106. Clause 113 empowers the Director and an authorized officer to enter, without a warrant issued by a magistrate, a private healthcare facility for which a licence is in force for ascertaining the matters specified in the clause.

107. Clause 114 empowers the Director and an authorized officer to enter, with a warrant issued by a magistrate, any premises to investigate the matters specified in the clause.
108. Clause 115 empowers the Director and an authorized officer to enter any premises for investigation in an emergency.
109. Clause 116 specifies the powers that the Director or an authorized officer may exercise for the purposes of clauses 113, 114(1), 115(1) and 132.
110. Clause 117 makes it an offence for a person to obstruct the Director or an authorized officer in performing his or her functions.

Division 3—Miscellaneous Provisions

111. Clause 118 empowers the Secretary to require information from a licensee of a private healthcare facility, and makes contravention of the requirement an offence.
112. Clause 119 imposes a duty of confidentiality on a public officer who performs any function under the Bill, and makes it an offence for breach of the duty.
113. Clause 120 deals with the immunity from civil liability for a public officer.
114. Clause 121 deals with service of notice under the Bill.
115. Clause 122 enables the Secretary to make regulations for the better carrying out of the Bill.

116. Clause 123 provides for the way of amendment of the Schedules to the Bill.

Part 9—Transitional Arrangements

Division 1—Interpretation

117. Clause 124 contains definitions that are necessary for the interpretation of Part 9.

Division 2—Application for Hospital Licence during Specified Period

118. Clauses 125 and 126 provide special treatment for an application for a hospital licence during the specified period for premises covered by a certificate of registration under Cap. 165. The new hospital licence will cover certain associated premises that were covered by the certificate of registration so as to constitute one private healthcare facility. An application fee equivalent to that for renewing a hospital licence is payable.

Division 3—Application for Exemption of Nursing Home during Specified Period

119. Clause 127 provides that application for exemption from clause 10 may be made for certain nursing homes registered under Cap. 165. The clause also provides for the grant and refusal of the exemption.
120. Clauses 128, 129 and 130 provide for the validity period and revocation of, and the grounds for revoking, an exemption.
121. Clause 131 requires the Director to establish, maintain and make available a register of exempted nursing homes for public inspection.

- 122. Clause 132 empowers the Director and an authorized officer to enter an exempted nursing home without a magistrate's warrant for investigation of the matters specified in the clause.
- 123. Clauses 133 provides for the expiry of Division 3.

Division 4—Application for Day Procedure Centre Licence or Clinic Licence during Specified Period

- 124. Clause 134 provides that, if an application for a day procedure centre licence is made during the specified period in respect of an existing day procedure centre, the Director must issue a provisional day procedure centre licence to the applicant if certain conditions are satisfied. Also, if the applicant is registered under Cap. 165 or Cap. 343 in respect of the existing day procedure centre, an application fee equivalent to that for renewing a day procedure centre licence is payable.
- 125. Clause 135 provides that, if an application for a clinic licence is made during the specified period for an existing clinic, the Director must issue a provisional clinic licence to the applicant if certain conditions are satisfied. Also, if the applicant holds a hospital licence that covers the existing clinic as associated premises, or is registered under Cap. 343 for the existing clinic, an application fee equivalent to that for renewing a clinic licence is payable.
- 126. Clauses 136 provides for the validity period of provisional licences for day procedure centres and clinics.
- 127. Clauses 137 provides for the expiry of Division 4.

Part 10—Amendment to Administrative Appeals Board Ordinance

128. Clause 139 deals with an amendment to the Schedule to the Administrative Appeals Board Ordinance (Cap. 442).

Part 11—Amendments to Residential Care Homes (Elderly Persons) Ordinance and its Subsidiary Legislation

Division 1—Amendment to Residential Care Homes (Elderly Persons) Ordinance

129. Clause 141 amends Cap. 459 by adding a provision to exempt a person operating a scheduled nursing home that is exempted under the Bill from the prohibition under section 6 of that Ordinance.

Division 2—Amendments to Residential Care Homes (Elderly Persons) Regulation

130. Clause 143 amends an existing definition in, and adds certain new definitions to, section 2 of the Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A) (**Cap. 459A**).
131. Clauses 144, 145 and 146 respectively amend section 3 of Cap. 459A to add a **nursing home** as a new type of residential care home, and make related amendments to section 11 of, and Schedule 2 to, Cap. 459A, as a consequence of the repeal of Cap. 165.

Part 12—Repeals

Division 1—Repeal of Hospitals, Nursing Homes and Maternity Homes Registration Ordinance

132. Clause 147 deals with the repeal of Cap. 165.

Division 2—Repeal of Medical Clinics Ordinance

133. Clause 148 deals with the repeal of Cap. 343.

Division 3—Repeal of Medical Clinics (Forms) Regulations

134. Clause 149 deals with the repeal of the Medical Clinics (Forms) Regulations (Cap. 343 sub. leg. A).

Part 13—Related Amendments

135. Clauses 150 to 195 contain related amendments to various enactments because of the Bill and the repeals of Cap. 165 and Cap. 343.

Schedules

136. Schedule 1 sets out the premises that are excluded from the definition of *hospital*.

137. Schedule 2 sets out different classes of specialized services and the medical procedures corresponding to those classes.

138. Schedule 3 sets out the fees payable in relation to applications for licences and other matters under the Bill.

139. Schedule 4 sets out the premises in which outreach medical services are provided as part of healthcare services.

140. Schedule 5 contains a list of scheduled clinics.

141. Schedule 6 contains a list of healthcare professionals.

142. Schedule 7 sets out the expressions not to be used in titles or descriptions of premises (other than a permitted facility).
143. Schedule 8 sets out categories of health services establishment.
144. Schedule 9 contains a list of scheduled nursing homes.