

# 立法會

## *Legislative Council*

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### **Report of the Panel on Health Services for submission to the Legislative Council**

#### **Purpose**

This report gives an account of the work of the Panel on Health Services during the current session. It will be tabled at the meeting of the Council on 21 June 2000 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

#### **The Panel**

2. The Panel was formed by a resolution of this Council on 8 July 1998 for the purpose of monitoring and examining Government policies and issues of public concern relating to health services matters. Following the establishment of the new administrative structure for the provision of municipal services on 1 January 2000, the terms of reference of the Panel were expanded to cover food safety, and agriculture and fisheries matters by a resolution of the Council on 27 January 2000. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 15 members. Hon Michael HO Mun-ka and Dr Hon LEONG Che-hung were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

#### **Major work**

##### Future mechanism for handling medical complaints

4. Following press reports on the subject, the Panel discussed the future mechanism for handling medical complaints in December 1999 with representatives of various health care professional bodies, the Consumer Council, a patients' organization and the Administration. Most members shared the view that the existing system lacked transparency and expressed support for

an independent medical ombudsman. In response, the Administration pointed out that such a system also had its limitations as the scope or jurisdiction of such an office was often limited to administrative complaints only for lack of the required expertise to deliver a judgment on allegations of professional misconduct. However, the Administration agreed that there was a need to enhance the credibility and transparency of the existing mechanism and was exploring improvements in collaboration with the Medical Council of Hong Kong.

#### Complaint handling mechanism of the Hospital Authority (HA)

5. Members noted that HA operated a two-tier complaint management system to investigate and handle complaints lodged by patients and members of the public. If a complainant was not satisfied with the outcome of the investigation conducted by the hospital or the HA Head Office to which he/she had initially filed his/her complaint, he/she might appeal to the Public Complaints Committee (PCC) of HA which was accountable to the HA Board.

6. In response to members' suggestion of making PCC independent from HA in order to enhance its credibility, the Administration pointed out that steps had been taken to ensure the impartiality of PCC. None of its members was HA staff and not all of its members came from the HA Board. Its decision was final within HA and could not be overturned by the HA Board. The Administration invited members to note that there were also various professional regulatory bodies outside HA which were responsible for investigating and handling complaints against the professional performance of the health care providers registered with them. It also explained that it was very common for large organizations to have their own complaint handling mechanism and HA was no exception. As to the suggestion of creating an independent appeal body outside HA apart from PCC, the Administration said that its views on the issue would be included in the forthcoming Green Paper on health care reform.

#### Long working hours of public hospital doctors

7. The Panel discussed the problem of long working hours of public hospital doctors with representatives of the Hong Kong Public Doctors' Association (HKPDA) and the Administration in March 2000.

8. HKPDA pointed out that public hospital doctors were facing very heavy workload as the overwhelming majority of patients (93%) were being handled by the public sector. It considered that the unbalanced situation of the public and private sectors in relation to the proportion of patients being handled by them should be addressed in the current review of the health care system.

9. Members noted that HA had been implementing new initiatives since September 1997 to alleviate the workload of public hospital doctors. To continue its efforts in this regard, HA had set up a Working Group on Working Hours of Doctors in HA Hospitals chaired by the Chief Executive of HA. The Working Group would follow up the problem and submit its findings in six months' time. In addition, HA was looking forward to the Green Paper on health care reform, which was expected to provide some solutions to improve the unbalanced situation of Hong Kong's health care system and enable private hospitals to have an increased share in providing health care services.

10. Since there were no major differences between the goals set by HA and HKPDA for improving the working hours of public doctors, the Panel requested HA to discuss with HKPDA how to implement necessary measures to achieve the goals and to report to the Panel progress made on the matter.

#### Process of registration of new pharmaceutical products

11. The Panel met representatives of the Hong Kong Association of the Pharmaceutical Industry (HKAPI) in February 2000 to discuss the process of registration of new pharmaceutical products as delay had occurred following the introduction of new registration procedures in early 1999.

12. To improve the situation, HKAPI suggested that regular meetings should be held by the Pharmacy and Poisons Board to facilitate manufacturers and importers to better plan the timeframe for submitting their applications. It also suggested that the Board should separately handle those applications found to have problems in order not to hold up other applications in the same batch.

13. As requested by members, the Administration agreed to review the meeting schedules of the Board and its committees and the legislative process to seek better coordination to expedite the registration process.

#### Regulation of ancillary dental personnel

14. The subject was discussed at two meetings of the Panel to follow up progress made since the matter was considered by the Panel in the last session. At the meeting in February 2000, the Administration reported that it proposed to extend the enrolment system for dental hygienists to dental technicians and to require dentists to provide proper on-the-job training to their dental surgery assistants. As regards dental therapists, since they were only employed by the Department of Health (DH) to provide school dental services under the direct supervision of DH dental officers, the Administration did not consider it necessary to introduce a regulatory system for them. Members considered that similar to the case of dental hygienists, if the law was amended to allow dental therapists to be employed by private medical institutions to perform minor

dental work under the supervision of dentists, there might be demands for them in the private sector and therefore the Administration should re-consider the policy.

15. As the subject had already been discussed on a number of occasions, members urged the Administration to finalize its proposals as soon as possible and to provide details of its plans for improving the training for dental surgery assistants for members' information.

#### Enforcement of the Smoking (Public Health) (Amendment) Ordinance 1997

16. At the meeting in February 2000, the Administration informed members that in view of enforcement problems in certain areas of the Ordinance, it was exploring the possibility of establishing a Tobacco Control Office under the auspices of DH.

17. Members pointed out that there were still many people smoking in shopping malls, lifts and designated no-smoking areas in restaurants and questioned why there had not been any prosecutions against such offenders since the implementation of the Ordinance. The Administration clarified that there had been prosecutions made against people found smoking inside lifts. The reason for not taking prosecutions against people found smoking in shopping malls and the other designated no-smoking areas over the past 18 months was that in most cases these people were willing to extinguish their cigarettes after being warned by the management staff.

18. Members observed that most management staff of shopping malls and restaurants were unwilling to interfere when they found people smoking inside such premises for fear of offending their customers or getting into trouble. On the other hand, many of the offenders were actually aware of the no-smoking requirement but had ignored it since it was not actively enforced by the Government. Members also pointed out that very often, the boundaries of no-smoking areas in restaurants were unclear. In view of the enforcement difficulties encountered, they supported a complete ban on smoking in restaurants. They urged the Administration to review its enforcement measures and tighten up the control of smoking in restricted areas to protect public health.

#### Regulation of health claim under the Undesirable Medical Advertisements Ordinance (UMAO)

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19. In view of the increasing number of false claims made by health food promoters with wide coverage in the media, the Panel asked the Administration to brief the Panel on the scope of the regulation and enforcement under existing legislation.

20. The Administration explained that the UMAO prohibited or restricted advertisements likely to lead to the use of any medicine, surgical appliance or treatment for a comprehensive list of diseases as set out in a Schedule to prevent the general public from being misled into using improper medicinal products for self-medication in respect of these diseases.

21. Members were concerned that the term "advertisement" under the UMAO did not include a package insert and many promoters made use of this loophole to make misleading or even false claims. Members were also concerned that there had only been one successful prosecution under the Ordinance since 1998. They considered that the present practice of first issuing a warning letter to anyone found misleading the public by inducing them to use improper medicinal products was unsatisfactory. Many unscrupulous operators had taken advantage of the lenient enforcement policy by mounting a large scale promotion to sell their products and would cease operation upon being warned by DH without suffering any penalty. They considered that the Administration should step up prosecution to avoid giving the impression that it was not active in enforcing the law. They also considered that the Schedule referred to in paragraph 20 above was too disease-oriented and that the scope of control should be extended to cover the health claims of any products.

22. The Administration admitted that since the UMAO was enacted over 40 years ago, there were grey areas in distinguishing between what was information and what was advertisement. The Administration would review the Ordinance and propose amendments where necessary. Members urged the Administration to introduce the necessary amendments as soon as possible and in the meantime, to step up prosecution under the Ordinance to protect the public from being misled by false health claims.

23. The Panel had asked the Research and Library Services Division of the Legislative Council Secretariat to conduct a research study on regulation of health food in various countries and would discuss the report of the study in June 2000.

#### Food safety control system in Hong Kong

24. The new Environment and Food Bureau (EFB) and the Food and Environmental Hygiene Department (FEHD) introduced their work in respect of food safety control at the Panel meeting in May 2000. Members noted that with the establishment of the new FEHD on 1 January 2000, the Administration had made organizational and infrastructural changes to the regulatory framework for food safety control. The new framework, based on the new model promulgated by the World Health Organization, sought to prevent the occurrence of food incidents at source and encouraged partnership,

responsibility sharing and documentation among all the stake holders, i.e. the Government, the food trade and the consumers. In addition to seeking further information from the Administration regarding the coordination and cooperation between the various departments in dealing with food-related matters, members also drew the Administration's attention to areas where improvements should be made.

25. In response to members' question as to when the Administration would make a decision on the provision of a central slaughtering facility for chickens, the Administration pointed out that it was considering several options and had not yet arrived at a decision. In response to members' comments that many poultry stall operators failed to comply with the guidelines on handling live poultry, the Administration undertook to step up publicity and enforcement of the guidelines.

26. Members also expressed concern about the problem of smuggling meat and poultry into Hong Kong, including people bringing them into Hong Kong on their return from visits to the Mainland, as such illegal practice posed a health hazard to Hong Kong. The Administration agreed to consider measures to strengthen the enforcement action as bringing meat into Hong Kong without proper health certificates contravened the Public Health and Municipal Services Ordinance (Cap. 132). However, it pointed out that there might be practical problems in tackling the problem due to the large number of people passing through the border checkpoints each day.

#### Other matters discussed

27. Other subject matters discussed by the Panel included Year 2000 compliance in public and private health sectors, implementation of the Enhanced Productivity Programme in HA and DH, control of use of health care laser equipment, referral by optometrists to HA specialist clinics, use of acupuncture and herbal medicine by other health care professionals, provision of hospital services for Kowloon East, and regulation of genetically modified foods.

28. From October 1999 to June 2000, the Panel held a total of 14 meetings, three of which were joint meetings with the Panel on Environmental Affairs.

Legislative Council Secretariat

16 June 2000

## Appendix I

### Panel on Health Services

#### Term of Reference

1. To monitor and examine Government policies and issues of public concern relating to medical and health services, public health education, food safety, and agriculture and fisheries matters.
2. To provide a forum for the exchange and dissemination of views on related policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in the relevant policy areas prior to their formal introduction to the Council or Finance Committee.
4. To examine and to report on any major issues of wide public concern in the relevant policy areas as referred by the Council or House Committee or as raised by the Panel itself.

立法會衛生事務委員會  
LegCo Panel on Health Services

委員名單  
Membership List

何敏嘉議員(主席)	Hon Michael HO Mun-ka (Chairman)
梁智鴻議員(副主席)	Dr Hon LEONG Che-hung, JP (Deputy Chairman)
何世柱議員	Hon HO Sai-chu, SBS, JP
何秀蘭議員	Hon Cyd HO Sau-lan
李永達議員	Hon LEE Wing-tat
李啓明議員	Hon LEE Kai-ming, SBS, JP
李華明議員	Hon Fred LI Wah-ming, JP
陳婉嫻議員	Hon CHAN Yuen-han
陳智思議員	Hon Bernard CHAN
梁劉柔芬議員	Hon Mrs Sophie LEUNG LAU Yau-fun, JP
黃容根議員	Hon WONG Yung-kan
楊森議員	Dr Hon YEUNG Sum
楊耀忠議員	Hon YEUNG Yiu-chung
羅致光議員	Hon LAW Chi-kwong, JP
鄧兆棠議員	Dr Hon TANG Siu-tong, JP

合共： 十五位議員  
Total : 15 Members

日期： 2000年2月10日  
Date : 10 February 2000