

立法會
Legislative Council

LC Paper No. CB(2)1385/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HS

Panel on Health Services

Minutes of meeting
held on Monday, 13 February 2006 at 8:30 am
in Conference Room A of the Legislative Council Building

Members present : Dr Hon KWOK Ka-ki (Chairman)
Dr Hon Joseph LEE Kok-long (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Fred LI Wah-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon YEUNG Sum
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, BBS, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH

Public Officers attending : Items IV and V
Dr T H LEUNG, JP
Deputy Director of Health

Item IV

Mrs Ingrid YEUNG
Deputy Secretary for Health, Welfare and Food (Health)

Ms Julina CHAN
Principal Assistant Secretary for Health, Welfare and Food (Health)

Dr KWONG Kwok-wai, Heston
Principal Medical and Health Officer
Department of Health

Mr MA Kam-lam, Alex
Assistant Government Chief Information Officer
(Programme Mgt & Application Integration)
Office of the Government Chief Information Officer
Commerce, Industry and Technology Bureau

Dr K H LEE
Executive Manager (Professional Services)
Hospital Authority

Ms Angela WONG
Transplant Coordinator
Hospital Authority

Item V

Miss Susie HO, JP
Deputy Secretary for Health, Welfare and Food (Health)

Mr Jeff LEUNG
Principal Assistant Secretary for Health, Welfare and Food
(Health)

Dr WONG Man-ha, Monica
Principal Medical & Health Officer
Department of Health

**Deputations
by invitation** : Item V

The Hong Kong Medical Association

Dr LAM Tzit-yuen
Council Member

Dr TSE Hung-hing
Council Member

Dr CHOI Kin
President

Dr SHIH Tai-cho
Vice President

Hong Kong Doctors Union

Dr YEUNG Chiu-fat
President

Dr CHEUNG Wan-kit
Council Member

Hong Kong Dental Association

Mr Vincent LEUNG Fun-shing
President

The Association of Licentiates of Medical Council of Hong
Kong

Dr LI Sum-wo
President

Union Concordia Medical Group

Mr Trevor CHAN
Director

808 Medical Centre

Dr John CHOW
CEO

BUPA Health Insurance

Dr Damien Marmion
Managing Director

Quality Healthcare Medical Services Ltd

Mr Arthur Dew
Chairman

Dr Lincoln Chee
Managing Director

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Mary SO
Senior Council Secretary (2) 8

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Confirmation of minutes
(LC Paper No. CB(2)1025/05-06)

The minutes of the meeting held on 9 January 2006 were confirmed.

II. Information paper(s) issued since the last meeting
(IN08/05-06)

2. Members noted that an information note on “Health care financing systems in selected places : Classification and reform” prepared by the Research and Library Services Division of the Legislative Council Secretariat was issued to members on 16 January 2006.

III. Items for discussion at the next meeting
(LC Paper Nos. CB(2)1026/05-06(01) to (03))

3. Members agreed to discuss the following items at the next regular meeting to be held on 20 March 2006 at 8:30 am -

- (a) Misleading or exaggerated claims made by slimming/fat reduction products and services provided by beauty parlours; and
- (b) Poison prevention and control.

4. Members further agreed to discuss work pressure of public doctors, as requested by Miss CHAN Yuen-han in her letter to the Panel (LC Paper No.

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CB(2)1026/05-06(03)), in April 2006.

5. The Chairman proposed and members agreed to include the issue of illegal medical practice in the list of outstanding issues for discussion by the Panel.

6. Ms LI Fung-ying hoped that in the event that the Administration planned to increase fees and charges for public health care services, the Administration should first consult the Panel. Deputy Secretary for Health, Welfare and Food (Health) (DSHWF(H)) responded that although it was the Administration's stance to further restructure the fees and charges for public health care services to better target public money on areas most in need, to her understanding there was no concrete proposal to date on the matter. DSHWF(H) assured members that Members of the Legislative Council (LegCo) would be consulted prior to implementation of any revision to the fees and charges for public health care services. Responding to the Chairman's enquiry on when the Administration planned to implement new fees and charges for public health care services, DSHWF(H) said that she was not in a position to answer the question. However, she would convey the Chairman's enquiry to the relevant public officers after the meeting and revert to the Secretariat.

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IV. Incorporation of organ donation details in Hong Kong's smart identity card

(LC Paper No. CB(2)1026/05-06(04))

7. At the invitation of the Chairman, DSHWF(H) briefed members on the proposal of incorporating a person's organ donation details into the Hong Kong Smart Identity Card. DSHWF(H) further said that although the proposal of using Smart ID Card to carry or access organ donation information merited further consideration, setting up a backend computer system to store and allow authorised personnel to access such information was also worth pursuing. To circumvent the situation that not all prospective donors carried the organ donation cards with them at all times, the Hong Kong Medical Association (HKMA) had set up a computer based central organ donation registry whereby all returned and completed organ donation forms were scanned and the image stored in a computer which was connected to the major transplant centres through modem. The database could be retrieved at any time by authorised persons of the transplant team, such as doctors and transplant coordinators. Prospective donors could withdraw their consent or change the type(s) of organ they wished to donate at any time by mail to HKMA, which would then be updated in HKMA's computerised organ donation register. DSHWF(H) however pointed out that no matter which option using electronic means to store a person's organ donation details was used, it should not replace the current organ donation card system so as to capture the greatest number of prospective donors.

8. Mr Bernard CHAN asked -

- (a) whether consideration could be given to incorporating a person's organ donation details into the driving licence as practised in many overseas jurisdictions, should there be insufficient spare capacity in the Smart ID card; and
- (b) whether there would be no need for legislation if a backend computer system was used to store a person's organ donation details and retrieve the details by authorised persons.

9. Assistant Government Chief Information Officer, Commerce, Industry and Technology Bureau (AGCIO) responded that the proposal of incorporating a person's organ donation details into the driving licence would not help to improve organ donations in Hong Kong. This was because citizens would in the near future no longer be required to carry a driving licence while driving, as by then the Police would be able to directly access the Transport Department backend computer system to find out a driver's status using the ID card number.

10. AGCIO further said that of the 32 kilobytes (Kb) capacity of the Smart ID card, nine Kb were left unused, including five Kb reserved for an Electronic Purse to be decided by the Hong Kong Monetary Authority. Of the 23 Kb already used, about 11 Kb were for immigration applications, four Kb were for storing personal data such as, ID card number, Chinese and English names and date of birth of the cardholder, and date of issue of the ID card, for non-immigration purposes, two Kb were for storing the operating system and six Kb were for storing the Hong Kong Post Digital Certificate.

11. The Chairman asked whether the four Kb spare capacity in the Smart ID card were sufficient to record the cardholder's willingness to donate his/her organ(s) upon his/her death. AGCIO replied in the positive.

12. As regards Mr CHAN's second question, DSHWF(H) said that theoretically there should be no need for legislation to enable the storing and retrieval of a person's organ donation details through a computer system for the reason that the storage of such was done voluntarily by the prospective donors on the understanding that their organ donation details would be retrieved by authorised persons upon their death.

13. Referring to the reply made by AGCIO in paragraph 11 above, Ms LI Fung-ying sought clarification from the Administration on why it mentioned in paragraph 11 of its paper that technically it was not possible at the moment to confirm if spare capacity in the Smart ID card would be sufficient to store all the

organ donation details. AGCIO explained that the reason why he said the chip in the Smart ID card had spare capacity to store organ donation details was on the condition that such details were confined to whether the cardholder was willing to donate his/her organs upon his/her death. There was a possibility that the spare capacity of the Smart ID card might not be sufficient to store all the organ donation details and a comprehensive maintenance and access control scheme. AGCIO however pointed out that the existing spare capacity of the Smart ID card was sufficient to store all information contained in the organ donation card and the basic access control that would be required.

14. Ms LI Fung-ying further asked whether the public needed to be consulted on incorporating a person's organ donation details into the Smart ID card. Noting that a person would need to apply for a new Smart ID card if he/she wished to make changes to the data already stored in the card, Ms LI asked whether the replacement cost would be borne by the Administration or the cardholder if the cardholder wished to incorporate or make changes to his/her organ donation details in his/her card. Ms LI also wondered whether incorporating a person's organ donation details into the Smart ID card would deter people from donating their organ(s) upon their death.

15. DSHWF(H) responded that the public would be consulted on incorporating a person's organ donation details into the Smart ID card should the Administration decide to take the matter forward. This was because legislative amendments to the Registration of Persons Ordinance (Cap. 177) and the Registration of Persons Regulation (Cap. 177A) would be required to enable the Director of Immigration (as the Commissioner of Registration) to include the data in the ID card.

16. DSHWF(H) further said that incorporating a person's organ donation details into the Smart ID card should not deter people from donating their organ(s) upon their death as the act would be voluntary. Should the proposal of incorporating a person's organ donation details into the Smart ID card be adopted, the alternative of signing an organ donation card, or consenting in writing or orally under the presence of two or more witnesses that his/her organ(s) be used for transplant after his/her death would still be available for a person who wished to donate his/her organ(s) after death.

17. As to whether the Administration would bear the replacement cost of Smart ID card arising from the cardholder wishing to incorporate his/her organ donation details in his/her card, DSHWF(H) said that no thought had yet been given to this question. She however surmised that it should not be difficult for the Administration to bear the replacement cost.

18. Mrs Selina CHOW said that the whole point of storing a person's organ donation details in the Smart ID card through electronic means was to provide

convenience for the prospective donors, so that he/she did not have to carry the organ donation card at all times. In the light of this, Mrs CHOW urged the Administration to come up with a most straightforward and economical manner to achieve the aim.

19. Mr LI Kwok-ying said that he saw no reason for the need to obtain the consent of the relatives of the deceased organ donation card holders to donate the donors' organ(s). Mr LI pointed out that such arrangements might give rise to the patients in line to receive the organ(s) for transplantation to bring the deceased donor's relatives to court for refusing to donate the deceased's organ(s).

20. DSHWF(H) responded that the practice of obtaining the consent of the relatives of the deceased organ donation card holders to donate the donors' organ(s) was needed, because of prevailing cultural and religious beliefs and the social value in respecting surviving family members' wish. DSHWF(H) further said that there was no cause for concern that patients in line to receive the organ(s) for transplantation would target criticism at particular individuals, as the identity of the donor would be kept confidential. Executive Manager (Professional Services), Hospital Authority supplemented that the wish of the deceased for organ donation was generally respected by the next-of-kin of the deceased. Only two cases of refusal to honour the wish of the deceased to donate their organs after their death had occurred in the past five years.

21. The Chairman noted that although over 430 000 organ donation cards had been distributed to the public in the past two years, organ donation cards were found in only 2 to 7% of potential donors interviewed by the transplant coordinators of the Hospital Authority. The Chairman asked whether there were other channels to identify prospective donors. Executive Manager (Professional Services), Hospital Authority responded that the organ donation registry administered by HKMA was another source to identify whether a deceased person had indicated his/her wish for organ donation after his/her death.

22. Mr Andrew CHENG said that the proposal of incorporating a person's organ donation details in the Smart ID card would help to promote greater public support on organ donation, as not every prospective donor would carry his/her organ donation card at all times. As the issues requiring consideration before implementing the proposal, as set out in paragraph 12 of the Administration's paper, were not difficult to surmount, Mr CHENG urged the Administration to expedite work in this regard in order to shorten the existing long queue for organ transplant.

23. DSHWF(H) responded that the Administration would actively examine the merits of storing a person's organ donation details in the Smart ID card or in a backend computer system, so as to come up with a decision as soon as practicable.

24. Dr YEUNG Sum expressed opposition to the proposal of incorporating a person's organ donation details in the Smart ID card, which was at variance with the view generally held by LegCo Members that personal data stored in the card should be kept to a minimum for privacy purpose. In the light of this, Dr YEUNG considered that the option of developing a backend computer system to store a person's organ donation should be pursued.

25. Dr Joseph LEE expressed support for the proposal of incorporating a person's organ donation details in the Smart ID card. Dr LEE however wondered how this could help to promote organ donation in Hong Kong given that no donation would be made if the relatives were not willing to follow the wish of the deceased who had consented to donate through signing an organ donation card.

26. Transplant Coordinator, Hospital Authority responded that of the about 1 086 cases referred to her office for follow-up with the deceased's relatives on whether they were willing to donate their deceased relatives' organs for transplantation during the past five years, the number of deceased found to have signed organ donation cards only ranged from the highest of eight to the lowest of three in a year. Most of the deceased's relatives also did not know or had never been told by the deceased of their wish to donate their organs after their death. Despite such, about 40% to 50% of the deceased's relatives were willing to do so and the number was growing in recent years. As to why some of the deceased's relatives refused to donate their loved ones' organs, Transplant Coordinator, Hospital Authority said that although reason due to cultural and religious beliefs was on the decline, other reasons due to not wishing to make the decision for the deceased and lack of consensus among family members accounted for about 30% to 40% of the cases and the percentage was on the rise. Transplant Coordinator, Hospital Authority however pointed out that the fact that the deceased's relatives refused to honour the wish of the deceased to donate their organs after their death was very rare, i.e. only one case in a year in 2001 and 2003.

27. Dr Joseph LEE urged that more efforts be made to step up educating the public on cadaveric organ donations so that more lives could be saved.

28. Mr Vincent FANG expressed support for incorporating a person's organ donation details in the Smart ID card in principle, and considered that the relevant cost should be borne by the Administration. To encourage more people to come forward to become prospective donors, Mr FANG suggested that they should be allowed to change their organ donation details in the Smart ID card at any time as they wished with no cost incurred to them.

29. Mr Bernard CHAN urged the Administration to pursue the setting up of a backend computer system to store a person's organ donation details, as such an

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arrangement did not require any legislation and was more straightforward than incorporating a person's organ donation details in the Smart ID card.

30. The Chairman said that incorporating a person's organ donation details in the Smart ID card should continue to be pursued by the Administration. He asked the Administration when this could be done and whether the public views on the proposal would be sought. The Chairman shared Dr Joseph LEE's views that more should be done to advocate cadaveric organ donations, and asked how this would be taken forward.

31. DSHWF(H) responded that to ensure that the wish of the prospective donors was honoured after their death, the best way was for these donors to let their wish be known to their family members. Publicity would be stepped up by the Administration to raise public awareness in this regard. DSHWF(H) further said that as the setting up of a backend computer system to store a person's organ donation details was more simple and straightforward than incorporating the same in the Smart ID card, the Administration planned to pursue the first option as a start. Should the use of a backend computer system to store a person's organ donation details was met with wide public support and acceptance, action would be taken to take forward the incorporation of a person's in organ donations in the Smart ID card in discussion with the Commerce, Industry and Technology Bureau. On promoting organ donation, DSHWF(H) said that one way was to include information leaflet on organ donation and the organ donation card in the distribution of application forms and other documents by Government departments. Including information leaflet on organ donation and the organ donation card in the application form for an adult ID card was an example.

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32. In closing, the Chairman requested the Administration to submit a progress report in due course on the work it had done in this regard. DSHWF(H) agreed.

V. Regulation of health maintenance organisations

(LC Paper Nos. CB(2)1026/05-06(05) to (06), CB(2)1075/05-06(01) to (02) and CB(2)1084/05-06(01))

33. At the invitation of the Chairman, DSHWF(H) introduced the Administration's paper (LC Paper No. CB(2)1026/05-06(05)) outlining the operation of Health Maintenance Organisations (HMOs), the landscape of managed care service in Hong Kong and the Administration's position in respect of the operation of such practices in Hong Kong.

Views of deputations

HKMA

34. Dr TSE Hung-hing presented the views of HKMA as detailed in its submission tabled at the meeting (LC Paper No. CB(2)1123/05-06(01)). HKMA pointed out that HMOs were only governed by the Companies Ordinance (Cap. 32) at present, which only sought to protect the interests of owners/shareholders and not the consumers. To safeguard patients' interests, HKMA urged the Administration to regulate HMOs through legislation to require them to follow the same ethical standard as doctors who were under statutory regulation of the Medical Council of Hong Kong (the Medical Council) and the Medical Registration Ordinance (Cap.161). Specifically, HKMA proposed that -

- (a) HMO must be controlled by the same principles controlling individual doctors;
- (b) HMO must bear the legal responsibility of breaching the Professional Code and Conduct for the Guidance of Registered Medical Practitioner issued by the Medical Council;
- (c) HMO must have a legal representative who was a doctor. He/she would be personally liable for the activities of the HMO, irrespective of whether he/she was actively practising in the HMO; and
- (d) the legal representative referred to in (c) above had to be the final decision maker for the running of the HMO, including professional activities, marketing and finance.

Hong Kong Doctors' Union

35. Dr YEUNG Chiu-fat presented the views of the Hong Kong Doctors' Union (HKDU) as detailed in its submission (LC Paper No. CB(2)1026/05-06(06)). Notably, HKDU suggested amending the Medical Clinics Ordinance (Cap. 343) or introducing a new legislation to the effect that an HMO must be owned by doctors whose percentage of shares in the HMO should be more than 90% of the entire number of shares issued, among others. By restricting the ownership of HMOs to doctors predominantly, it was hoped that the problem of HMOs owned by businessmen whose primary goal was to make profits at the expense of safeguarding patients' interests could be stamped out.

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Hong Kong Dental Association

36. Dr Vincent LEUNG introduced the Hong Kong Dental Association (HKDA)'s submission (LC Paper No. CB(2)1075/05-06(01)) which recommended the preclusion of HMOs in dentistry for the reasons that HMOs took all the rightful returns from dentists, provided poor quality services and put the employee dentists in legal jeopardy. Dr LEUNG further said that if HMOs providing dentistry service were allowed to exist, HKDA was of the view that the majority of shareholders of the HMOs in dentistry should be dentists and that the employee dentists must also follow the rules and regulations stipulated in the Dentists Registration Ordinance (Cap. 156) as dentists in solo practice.

The Association of Licentiates of Medical Council of Hong Kong

37. Dr LI Sum-wo said that the Association of Licentiates of Medical Council of Hong Kong concurred with HKMA on the need to regulate HMOs through legislation.

808 Medical Centre

38. Dr John CHOW presented the views of 808 Medical Centre as detailed in its submission (LC Paper No. CB(2)1084/05-06(01)). Specifically, although HMOs were welcome by insurance companies and employers for their ability to reduce abuses and increase cost-effectiveness, patients' interests might be jeopardised if acts to achieve such benefits were taken too far. To counter such, some form of professional accountability and monitoring by an independent party could be introduced. Apart from this, the Medical Council could issue explicit and comprehensive guidelines to restrict doctors' participation in any undesirable scheme or establishment.

BUPA Health Insurance

39. Dr Damian Marmion presented the views of BUPA Health Insurance as detailed in its submission (LC Paper No. CB(2)1075/05-06(02)). Notably, BUPA Health Insurance did not see the need to introduce further legislation to regulate HMOs in Hong Kong as Hong Kong did not have full fledged HMOs, the definition of which was "a prepaid medical service in which members pay a fee for all health care, including hospitalisation". The HMOs in Hong Kong were essentially doctor "panel" groups providing limited primary and secondary care to outpatients through either managed care insurance or pre-paid medical plans. Regulation of these doctor "panel" groups was presently through the individual registration of the doctors involved, the Companies Ordinance as well as other relevant ordinances according to the business purpose and facilities, such as radiation and pharmacy.

Quality Healthcare Medical Services Ltd.

40. Dr Lincoln CHEE shared the views of BUPA Health Insurance that there was no need to introduce further legislation to regulate HMOs in Hong Kong, which essentially were group medical practices. Dr CHEE then highlighted some of the positive aspects of group practices of contract medicine, such as providing a predictable budget for employers to provide medical cover for their employees who otherwise might not have any medical coverage on their own, providing a comprehensive range of services to patients which could not be provided by a solo-practice clinic, providing a career path for doctors interested in developing a career in contract medicine and facilitating greater private and public interface.

Discussion

41. Mr Andrew CHENG expressed support for the recommendations of the HKMA on the regulation of HMOs, so as to ensure that patients receiving medical services from HMOs were getting the same level of care and protection as if from a solo-practice clinic.

42. Mr Fred LI wondered whether the Administration knew the extent of the problem of HMOs in Hong Kong, having regard to its admission that it did not have the exact number of HMOs in Hong Kong. Mr LI asked the Administration to find out how overseas jurisdictions regulate HMOs and what it intended to do to address the situation whereby managed care groups could advertise their medical services whereas solo-practice clinics were prohibited to do so.

43. Before responding to members' questions, DSHWF(H) requested doctors' groups attending the meeting to provide her with more information on the malpractices of managed care groups referred to in their earlier presentations so that she could follow them up. DSHWF(H) then said that -

- (a) the Medical Council, set up by virtue of the Medical Registration Ordinance, was the statutory body to regulate the practice of medical practitioners. Medical practitioners were under professional obligation to ensure that their medical services were up to the professional standards stipulated by the Medical Council. Irrespective of a medical practitioner's mode of practice, he/she owed professional responsibilities to patients in respect of professional relationship with patients, communication, use of drugs, financial arrangements and relationship with other practitioners, in the course of clinical practice. For instance, apart from the legal consequence of using unregistered drugs in Hong Kong, doctors who dispensed and prescribed unregistered drug would further be

subject to disciplinary actions by the Medical Council. Hence, the Administration considered the aforesaid mechanism could sufficiently protect patients' interests as far as medical service quality was concerned;

- (b) the Administration currently did not see a need to single out managed care groups for regulation, as had been done in the United States (US) due to the especially high penetration of private medical insurance there and specific facilitation measures adopted by the US Government. Opportunity would be taken to regulate all forms of private medical business operation, including various forms of HMO-like entities and groups, as had been done in places such as the United Kingdom, when the role of the private sector in the provision of primary health care service had been further enhanced;
- (c) the Administration had no strong view on doctors advertising their medical services if this was agreed to by the Medical Council; and
- (d) as regards the complaints against HMO-like organisations received by the Consumer Council, over half of them were related to improper sales practice, in particular the selling of medical discount cards, which covered both group and solo-practice clinics.

44. Dr CHOI Kin of HKMA criticised the Administration for failing to see the problems of HMOs undermining patients' interests, compromising doctors' professional autonomy by business and financial considerations, and putting doctors in legal jeopardy in the use of unregistered drug, and urged the Administration to carefully consider the suggestions made by HKMA in its submission.

45. Due to time constraint, members agreed to hold a special meeting to continue discussion with the Administration and deputations on the need to regulate HMOs.

(Post-meeting note : The special meeting to further discuss the regulation of HMOs was scheduled for 30 March 2006 at 8:30 am.)

46. There being no other business, the meeting ended at 10:43 am.