

Our ref: HKDU/037/2006

LC Paper No. CB(2)1530/05-06(03)

25th March 2006

By fax & mail

Ms. Doris Chan
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Ms. Chan,

Regulation of private profiteering Health Maintenance Organizations (HMOs)*
Submission by Hong Kong Doctors Union (Part II)

Hong Kong Doctors Union is established under the Ordinance of Trade Union in Hong Kong and looks after the employer – employee relations of public and private medical practitioners.

We urge our Government to regulate the captioned HMOs which provide any form of medical treatment to patients through legislative proposal as stated in our previous submission to your esteemed Committee dated 7th February 2006 (Appendix 1).

HKDU has received numerous complaints from our members about the malpractices of the HMOs. These malpractices will not only restrain the doctor's clinical management, but will have significant ill effects which are detrimental to the health of the public.

In March 2006, HKDU conducted a survey among our members for their views on the present HMO system in Hong Kong (Appendix 2). It was found that 100% (102/102) of them agreed to formal legislation to regulate the commercial profiteering HMOs in Hong Kong; and that 92% (93/102) of them agreed that the present HMO system has restricted their management care to their patients, like restriction in the use of the most appropriate medications, laboratory and radiological investigations.

HKDU was also aware through the news media report on 15th February 2006 that a telephone survey of the public (Appendix 3) showed that over 87% of 266 respondents agreed that the Authority should enact new laws as soon as possible to regulate the operations of HMOs to protect the health of the citizens.

Below are examples of how these HMOs ill treat the doctors and jeopardize the health of the public.

1. Unrealistic goals are set by a big HMO company in HK to its panel doctor: "Maintain the repeated visit rate of the General Practitioner (G.P) service below 10% and that of the Specialist (SP) service below 15% (subsequent visits of the same patient with the same/related diagnosis within 4 days interval); Maintain the generated cost below \$30; Maintain Specialist referral rate below 10%; Maintain Diagnostic test referral rate below 5%; Maintain medication prescription rate below 5%." These unrealistic goals restrict and restrain the doctors management and may delay appropriate management including specialist referral for patients.

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2. A HMO asked its panel doctor to collect \$140 cash from patient who comes after 9pm and to refund the cash on the next day when the patient returns with card “approved” by the HMO. This invites violation of the clinic account record and suspicion of non entry of incomes which may violate the Inland Revenue Ordinance.
3. Illegal and sub-standard medical practices
 - 3.1 A HMO requests its panel doctor to explicitly limit the amount of medications to be prescribed to the dependents of a big company in Hong Kong because of budget constraint.
 - 3.2 HMO forces an inexperienced doctor to practise in medicine/procedure that he is not competent in with and without supervision. A vivid example is a young doctor who is forced to use beauty treatment products and its related procedure (Laser or IPL) with a target quota set. As a result, this poor doctor is forced to find “cases” to reach the target or he may be punished.
 - 3.3 A patient who will undergo invasive investigation like colonoscopy is limited to one day hospital stay only. This limitation will surely jeopardize the health of the patient if a complication from the procedure unfortunately occurs.
 - 3.4 A HMO employee doctor is found to work in association with an unregistered medical practitioner unknowingly.
 - 3.5 A HMO clinic employs a person who holds no registered medical qualification as their night clinic doctor.
 - 3.6 HMO exploits its employees (registered medical practitioners) to purchase dangerous drugs (DDs) on behalf of the group. However, when the doctors leave the group or the clinic/group closed down, the keeping of these DDs will be at risk, they may be lost and could not be traced. This poses a severe threat to the public and raises the problem of possible drug abuse.
 - 3.7 Unreasonable budgeted prescription, \$80 per consultation including 3 days medications, will inevitably lower the standard of medical practice.
 - 3.8 Use of illegal Flu vaccine as reported previously.
 - 3.9 A HMO limits the electrocardiogram examination (ECG) to be performed in its designated laboratory but without a cardiologist report even if the referring doctor requests for one.

4. What patient pays for does not equal to what patient will get

A big HMO in Hong Kong receives different subscription rates from its clients; however, there are no differences in their reimbursement to the doctors. That is, you will receive the same medical service in monetary terms regardless of the amount that you have paid to the HMO. In the end, this excess simply goes into the pocket of the HMO. The consumers' rights are totally ignored.

5. Lack of fee transparency

A HMO explicitly warns the panel doctor "not" to mention the medical fees to the patients and that a 15% administration charges are imposed without patient knowing. This is contradictory to the present Code and Conduct from the Medical Council of Hong Kong.

These are a few of the many malpractices that the HMOs have committed in the past ten or more years. The health of the people in Hong Kong are now at stake if no additional control measures enforced by the Government. Therefore we earnestly urge our Government to regulate these HMOs through legislation so that they are brought under the strict surveillance by the Medical Council and the Medical Registration Ordinance before it is too late.

Yours sincerely,

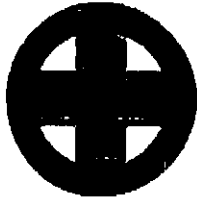
Dr. Ho Ock Ling Thomas
Hon. Secretary
Hong Kong Doctors Union

* **Private profiteering Health Maintenance Organizations include those registered private organizations, companies and societies which:**

- 1) provide medical services directly or indirectly;**
- 2) influence directly or indirectly the mode of medical service delivery**

FOR PROFIT.

Encl.

**香港西醫工會****HONG KONG DOCTORS UNION**

Room 901, Hang Shing Bldg., 363-373, Nathan Road, Kowloon.

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Appendix 1 (1/5)

Our ref: HKDU/016/2006

7th February 2006By fax & mail

Ms. Doris Chan
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Ms. Chan,

Regulation of private profiteering Health Maintenance Organizations

Hong Kong Doctors Union is established under the Ordinance of Trade Union in Hong Kong and looks after the employer – employee relations of public and private medical practitioners.

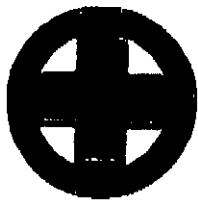
We have been negotiating with the Department of Health since early 90's on the Incorporation of Medical Practice since the introduction of Health Maintenance Organizations (HMOs) and have urged the Director of Health to speed up the drafting of the necessary amendments to the Medical Clinic Ordinance (MCO) or the new legislation on incorporation of medical practice, and to state explicitly the following points in the relevant ordinances:-

- (1) It is legal for the medical practitioners to incorporate their private medical practice no matter it is a profit making or non-profit making concern.
- (2) The percentage of shares in such incorporated private medical practice owned by doctors should be equal to or more than 90% of the entire issued share capital of the company. (Annex A)

There are two good reasons to speed up the drafting of the necessary amendments to the MCO or the new legislation on incorporation of medical practice:-

- (a) Medical practitioners should have the same legal right as other professions viz. Accountants, Lawyers and Dentists, to incorporate their medical practices;

Cont./P. 2



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Appendix 1 (2/5)

Our ref: HKDU/016/2006

P. 2

- (b) By restricting the ownership of the incorporated private medical practice to medical practitioners, it is hoped that we can stop non-medical people from playing a dominant role in the private health care system of Hong Kong. Otherwise, the standard of medical care in the private sector will be jeopardized.

In one of the reply letters from the Department of Health in 1998 (Annex B), the Director of Health stated explicitly that the Administration had taken up this issue and sought legal advice on the way forward. However, we have not received further progress since.

Side effects of the unregulated HMOs have surfaced in the past years since then and the most recent one is the import of illegal flu vaccine, which is detrimental to the health of the community at large. There are of course many ways by which the private profiteering HMOs somehow manage to force the young and un-experienced doctors to provide service to the community which is either unethical or without evidence based like trimming of body fat, increase libido, using Laser or IPL without adequate experience and training and even associated with unregistered medical practitioners unknowingly. The community welcomes the numerous 24 hours clinics in the market but fails to recognize the predicament of the staff working behind the scene under highly stressful conditions, which threaten the quality of medical services provided.

For the protection of the public and the maintenance of good medical care, a more stringent control of these HMOs is called for.

Yours sincerely,

Dr. Ho Ock Ling Thomas
Hon. Secretary
Hong Kong Doctors Union

Encl.

Outgoing13

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Annex A

1. Companies of Medical Practitioners

A body corporate may carry on the business of medical practice if it carries on no business other than medical practice or some business ancillary to the business of medical practice.

(Dentist Registration Capt. 156/12, No. 12 is referred)

2. Qualification for registration of company as corporate practice

2.1 Company with three or more members

Where a qualified company has 3 or more members -

- (i) each of its members shall be both a director of the company and a registered medical practitioner, and only persons who are members of the company may be a director of the company;
- (ii) the registered medical practitioners of the qualified company shall at all times be covered by professional indemnity insurance.

2.2 Company with two members

Where a qualified company has only 2 members -

- (i) 1 such member shall be a registered medical practitioner and the other such member shall be either -
 - (A) a registered medical practitioner; or
 - (B) a person in relation to whom a permission under Appendix A is in force.
and only persons who are members of the company may be a director of the company.
- (ii) the registered medical practitioners of the qualified company shall at all times be covered by professional indemnity insurance.

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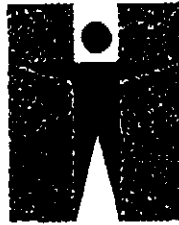
Appendix A

A permission for the purposes of this section shall be granted if, and only if, the Medical Council is satisfied that -

- (i) in respect of the shareholding of the applicant company, a legally enforceable arrangement exists whereby -
 - (A) **a person who is a registered medical practitioner is to hold equal to or more than 90% of the entire issued share capital of that company;**
 - (B) **the person holding the remaining shares holds it in trust for the holder referred to in subparagraph (i)(A);**
 - (C) in case the person referred to in subparagraph (i)(B) resigns, dies, or due to mental or physical incapacity becomes unable to act as a director of the applicant company, or in case a permission for the purposes of this section and relating to him is withdrawn, his share will devolve to another person; and
- (ii) the person specified in the application is a fit and proper person to whom to give a permission for the purposes of this section; and
- (iii) in respect of the management of the applicant company, its memorandum and articles of association contain provisions to the effect that -
 - (A) the holder referred to in subparagraph (i)(A) is to be the managing director having the day to day management of the company;
 - (B) such holder is to have a second or casting vote at meetings of the applicant company's board; and
 - (C) a person referred to in subparagraph (i)(B) is to cease to hold office as a director on his share's devolving to another person as described in subparagraph (i)(C).

(Professional Accountants (Amendment) Bill No. 85/1995, 28D is referred)

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衛生署
香港灣仔皇后大道東213號
胡忠大廈17及21樓



THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION
DEPARTMENT OF HEALTH,
WU CHUNG HOUSE, 17TH & 21ST FLOORS,
213 QUEEN'S ROAD EAST, WAN CHAI,
HONG KONG.

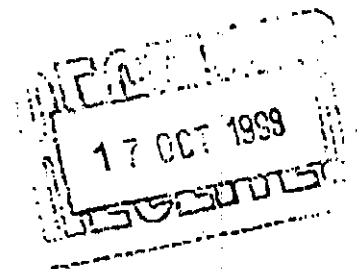
Appendix 1 (5/5)

Annex B

本署檔號 OUR REF: (75) in DHHQ/1010/22/1 Pt. 4
來函檔號 YOUR REF:
電話 TEL.: 2961 8894
圖文傳真 FAX.: 2836 0071

14 October 1998

Dr Yeung Chiu Fat
Chairman
Estate Doctors Association
Room 901 Hang Shing Bldg.,
363-373 Nathan Road
Kowloon



Dear Dr Yeung,

Incorporated Medical Practice

Thank you for your letter of 28 September 1998.

You may wish to know that regarding the legality of incorporated medical practice, the Department of Health has sought legal advice from the Department of Justice. We have been advised that the Medical Clinics Ordinance enacted in 1964 provided for the registration of charity clinics operating in Hong Kong, many of which were maintained by unregistered doctors. The intention of the Ordinance is not to regulate profit-making practices whether owned by medical professionals or non medical professionals. I hope this has clarified the position of legality of incorporated medical practice.

Thank you for your attention.

Yours sincerely,

P.A. file
Agenda

10/98/18

(Dr Monica WONG)
for Director of Health

We are committed to providing quality client-oriented service

香 港 西 醫 工 會
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Appendix 2

24.3.2006

Results of Questionnaire on Health Maintenance Organisations

In order to collect the views from members on Health Maintenance Organisations, the Hong Kong Doctors Union sent a questionnaire to 1,746 members on 10.3.2006.

As at 24.3.2006, 102 members (5.84%) returned the questionnaire to HKDU. The preliminary results of the survey are :-

| | | Agree | Disagree | Abstain | Total |
|----|---|----------------|-----------|--------------|---------------|
| 1. | Do you agree that formal legislation is necessary to regulate the Commercial Profiteering HMOs in Hong Kong? | 102 (100%) | 0 (0%) | 0 (0%) | 102 (100%) |
| 2. | Is the present HMO system restricting your management care to your patients, such as restriction of the use of expensive medication, restriction of laboratory and radiological investigations, etc.? | 93 (91.18%) | 0 (0%) | 9 (8.82%) | 102 (100%) |

Results of Questionnaire on HMO/DrsRight

10. 涉不道德經營激增 予人壞印象 醫療集團須規管

本港公私營醫療發展迅速，私營醫療集團更如雨後春筍般愈開愈多，消費者委員會收到市民投訴醫療集團涉及不道德經營的個案亦激增，去年達到五十一宗，比較兩年之前增加四倍。「太陽民意」調查發現，接近九成受訪市民認為針對醫療集團的投訴激增，顯示問題十分嚴重，恐會影響市民健康；同時有七成受訪者表示對醫療集團印象欠佳，支持政府立法規管。

分析結果

香港醫學會、西醫工會等團體日前參加立法會衛生事務委員會時，紛紛指摘醫療集團運作不受規管，前線醫生在集團工作時，有人被迫從事與專業守則相違背的事。「太陽民意」透過電話抽樣訪問了二百六十六名市民，了解他們對醫療集團經營手法的意見，結果發現，接受調查的市民，共有近九成受訪者批評醫療集團經營手法對市民健康有嚴重影響，其中五成四受訪者表示，醫療集團以不道德手法經營，會影響患者；同時有三成半受訪者認為，針對這類集團的投訴，短短兩年間激增四倍，當局不應忽視。

電話滋擾令人煩厭

調查了解市民在醫療集團就診後，對有關集團的服務意見時，逾七成受訪者表示不佳及不理想，其中四成三受訪者表示，往醫療集團轄下診所就診時，發現醫生診症較馬虎，求診一段時間亦未痊愈；另有三成受訪者表示，不時收到醫療集團的滋擾電話，令人煩厭。只有一成二受訪者表示，醫療集團診症價錢便宜，病人可得益。

日前，多個醫療界團體出席立法會衛生事務委員會時，要求衛生福利及食物局立法監管醫療集團運作，避免前線醫生被迫違背專業守則，接受調查的市民中，八成七受訪者都表示，支持當局盡快立法，限制醫療集團運作，避免市民投訴繼續上升；同時有三成受訪者表示，既然有多個醫療界組織不滿醫療集團的手法，政府不應輕視，有必要研究是否盡快立法。只有不足百分之五點五的受訪者認為，本港醫生已有專業守則監管，毋須另行立法。