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Panel on Health Services

Background brief prepared by the Legislative Council Secretariat for the special meeting on 27 November 2012

Regulation of medical beauty treatments/procedures

Purpose

This paper summarizes the concerns of the members of the Panel on Health Services ("the Panel") on issues relating to the regulation of medical beauty treatments/procedures.

Background

2. In early October 2012, there were four reported cases of women suffering from septic shock after receiving intravascular infusions at a beauty treatment centre ("the medical beauty incident"). One woman subsequently died of multiple organ failure while the other three were seriously ill. The incident has aroused public concerns over the need for the Government to tighten up regulation of the beauty industry and provide a clear definition to differentiate beauty therapies from medical treatments/procedures.

3. Meanwhile, there are calls for the Government to review and improve the legislation regulating private healthcare facilities, having regard to the development in medical practice and technology, as well as international best practices. In this regard, the Government established a Steering Committee on Review of the Regulation of Private Healthcare Facilities ("Steering Committee")

on 11 October 2012 to conduct a review on the regulatory regime for private healthcare facilities. According to the Administration, the Steering Committee would be underpinned by working groups to conduct in-depth research and work out options of way forward on task-based topics. Following the medical beauty incident, the Administration has announced that the first working group to be set up under the Steering Committee would be tasked to differentiate between high-risk medical treatments and low-risk, non-invasive beauty services.

Deliberations of the Panel

4. The Panel held a special meeting on 26 October 2012 to discuss the regulation of medical beauty treatment/procedures. The deliberations and concerns of members are summarized below.

Review of the regulation of private healthcare facilities

5. Members were generally of the view that the existing legislation in regulating private healthcare premises was far from effective in protecting public health. There was a genuine and pressing need to review and improve the regulation of private healthcare facilities as laid down in the Hospital, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) and the Medical Clinics Ordinance (Cap. 343) to keep up with the development in medical practice and technology. Noting that the Steering Committee's review would take about a year to complete and a lead time of about two to three years for the introduction of legislative proposals, members urged the Administration to expeditiously review and introduce a comprehensive regulatory framework for private healthcare facilities, in particular for those high-risk medical treatments/procedures performed outside the hospital setting.

6. Some members expressed concern as to whether the review to be conducted by the Steering Committee would cover the operation of medical or clinical laboratories requiring an aseptic environment. They noted that with the evolution of medical technology, some high-risk and complicated medical treatments/procedures which were previously performed in the hospital setting were currently performed at ambulatory medical centres and non-clinical facilities, but these premises, as well as laboratories set up in the community setting for the processing of health products for advanced therapies, were not

covered in the existing regulatory regime. The Administration advised that the Steering Committee would examine the need to introduce a more comprehensive regulatory framework to regulate the premises. The Administration would not rule out the possibility that medical or clinical laboratories undertook aseptic work would be subject to licensing control in the future.

7. Members were concerned about the composition of the Steering Committee. There was a view that the Steering Committee should include lay members, such as personnel from the beauty trade. The Steering Committee should also hold public consultations to gauge the views of the trade and the public during the review process.

8. According to the Administration, the Steering Committee comprised four ex-officio members and 16 non-official members, including personnel from a wide range of backgrounds and interests covering healthcare professions, academia, regulatory bodies and patient and consumer rights groups. The Administration would consult the public on the proposals put forward by the Steering Committee and would engage the trade and the public in the review process when such a need arose.

Interim measures pending the development of legislative proposals

9. Noting the long lead time required to develop and introduce legislative proposals, members expressed grave concern about the interim measures to be put in place to protect consumers receiving medical beauty services.

10. According to the Administration, a working group under the Steering Committee would be set up to differentiate between high-risk medical treatments and low-risk, non-invasive beauty services, as well as formulate guidelines as interim measures pending the development of legislative proposals. Upon the promulgation of the guidelines, beauty services companies could no longer improperly perform those procedures that fell within the definition of high-risk medical treatments/procedures. The Administration would also step up its efforts to enhance public education on how to select safe beauty services. The Department of Health would enhance screening of advertisements of beauty services and work with the Consumer Council to analyze complaints, conduct inquiries, carry out proactive inspections and where necessary, take enforcement actions against beauty services companies suspected of involving in the provision of high-risk medical treatments/procedures to consumers.

11. Pointing out that some invasive procedures such as nose or tongue piercing and tattooing were commonly performed by beauty services companies, members considered that an essential first step to regulate medical treatments/procedures was to provide a clear definition of medical procedure which should only be conducted by registered medical practitioners. A classification system should be devised for medical procedures according to their invasiveness and risk level. Some members, however, took the view that the crux of the problem was the lack of regulation of the high-risk cosmetic procedures. The Administration should take into account not only the risk level but also the providers of the procedures when considering the differentiation between cosmetic and medical procedures. There was also a view that all procedures that would pose a risk to infection or contracting certain diseases should be subject to statutory regulation. Any non-compliance with these statutory requirements would lead to prosecution, so as to prevent those unscrupulous service providers from evading their responsibility by closing down their businesses.

12. Citing daily insulin injections for diabetic patients by their carers as an example, the Administration pointed out that it was impracticable that all medical procedures had to be performed by registered medical practitioners. In this connection, a working group comprising members from relevant medical specialties, the beauty industry and consumer groups would be set up under the Steering Committee to forge a consensus on what constituted high-risk medical treatments and low-risk, non-invasive beauty services, taking into account the regulatory frameworks in overseas jurisdictions and the local circumstances.

13. Some members considered it important for the working group to seek views of the medical profession as well as the beauty industry. Consideration should be given to permitting the performance of certain medical procedures by trained personnel other than registered medical practitioners. In hammering out the regulatory framework for medical treatments/procedures, due regard should also be given to ensuring the enforceability and practicability of the provisions.

Regulation of beauty services companies providing medical procedures

14. Members were concerned about the lack of regulation over the operation of beauty services companies, in particular those providing advanced stem cell

therapies. They were of the view that the Administration's proposal of defining high-risk medical treatments/procedures could not address the problem. Some members stressed the need to introduce more stringent control on the beauty services companies. They sought the Administration's view on the introduction of a licensing regime for the beauty trade in the future.

15. According to the Administration, beauty services companies and premises involved in providing stem cell therapies were not currently subject to licensing control. The provision of or the processing of health products for stem cell therapies was not limited to beautification purpose. That said, the Administration maintained an open attitude on the introduction of a licensing scheme for the beauty industry and welcomed views of the trade and the public.

16. Members further expressed concern about measures to enhance consumer protection. Some members were of the view that consumers who were dissatisfied with the results of the beauty treatments/procedures received should be entitled to refund or compensation. Some other members proposed the introduction of a seven-day cooling-off period to cover consumer transactions involving beauty services.

Enforcement of Undesirable Medical Advertisements Ordinance

17. Members expressed concern about the misleading beauty services advertisements involving medical treatments/procedures. Members were advised that there were only a few successful prosecutions brought against beauty services companies under the Undesirable Medical Advertisements Ordinance (Cap. 231) in the past three years. Considering the large number of beauty services advertisements involving medical treatments/procedures in the printed media, members were of the view that the low prosecution rate revealed inadequacies in the existing regulatory regime.

18. The Panel passed a motion at the meeting on 26 October 2012, expressing serious disappointment that the Administration had failed to provide effective measures to ensure that the health and life of people receiving medical beauty therapy would not be threatened, and urging the Government to comprehensively review the medical beauty industry and expeditiously launch effective measures to safeguard the public, including introducing legislation and a licensing system to regulate the medical beauty industry.

Recent development

19. The Steering Committee held its first meeting on 2 November 2012 and decided to set up four working groups to assist its work. The four working groups would study issues relating to the differentiation of medical procedures and beauty services; definition of high-risk medical procedures performed in ambulatory setting; regulation of premises processing health products for advanced therapies; and regulation of private hospitals. The first working group to be set up would also seek to address the health risk brought by beauty services companies improperly performing medical procedures under the cover of providing "medical beauty services". The working group would be chaired by the Director of Health, comprising Steering Committee members as well as representatives from relevant medical specialties, the beauty industry and consumer groups. The working group was expected to present its initial recommendations to the Steering Committee in the second quarter of 2013. According to the Administration, the other three working groups would be set up in one to two months' time.

20. According to the press release issued by the Consumer Council on 15 November 2012, the Consumer Council received 141 complaints against invasive beauty treatments such as plastic surgery, cosmetic injections and laser therapies in the first 10 months of 2012, representing an increase of 37% when compared to 103 complaints received in the corresponding period of 2011.

Relevant papers

21. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
23 November 2012

Appendix

Relevant papers on the Regulation of medical beauty treatments/procedures

Committee	Date of meeting	Paper
Panel on Health Services	26.10.2012 (Item I)	Agenda CB(2)143/12-13(01)

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