

立法會
Legislative Council

LC Paper No. CB(2)2232/13-14
(These minutes have been
seen by the Administration)

Ref :CB2/BC/6/13

Bills Committee on Electronic Health Record Sharing System Bill

Minutes of the third meeting
held on Monday, 26 May 2014, at 4:30 pm
in Conference Room 1of the Legislative Council Complex

Members present : Hon Charles Peter MOK (Chairman)
Hon Emily LAU Wai-hing, JP
Prof Hon Joseph LEE Kok-long,SBS, JP, PhD, RN
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon Alan LEONG Kah-kit, SC
Hon CHAN Han-pan
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP

Members absent : Hon Cyd HO Sau-lan
Hon WU Chi-wai, MH
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Public Officers attending : Item II
Mr Sidney CHAN, JP
Head (eHealth Record)
eHealth Record Office
Food and Health Bureau

Ms Ida LEE
Deputy Head (eHealth Record)
eHealth Record Office
Food and Health Bureau

Dr Antonio SEK
Chief Manager (eHealth Record)
eHealth Record Office
Food and Health Bureau

Mrs Juliet Pohon CHENG CHAN
Chief Systems Manager (eHealth Record)
eHealth Record Office
Food and Health Bureau

Dr W N WONG
Senior Health Informatician (eHealth Record) Special Duties
eHealth Record Office
Food and Health Bureau

Ms Rayne CHAI
Acting Senior Assistant Law Draftsman
Department of Justice

Mr Patrick YEUNG
Senior Government Counsel
Department of Justice

Ms Carmen CHAN
Government Counsel
Department of Justice

Attendance : Hong Kong Alliance of Patients' Organizations
by invitation

Mr TSANG Kin-ping
Executive Committee Member

Professor John Bacon-Shone

Senior Citizen Home Safety Association

Ms Sindy YEUNG Oi-yee
Assistant General Manager

eHealth Consortium Limited

Mr Ricky CHAN Hiu-ming
Vice President

Ms June LUI Wing-mui

System Aid Medical Services Limited

Miss Joanna CHU Yuen-yi
Marketing Director

Civic Party

Miss Bonnie LEUNG
Exco Member

The Hong Kong Medical Association

Dr HO Chung-ping
Chairman, Information Technology Committee

Hong Kong Doctors Union

Dr YEUNG Chiu-fat
President

Arpmha

Mr Andy LAU Kwok-fai
Chairman

Mr NG Kwok-keung

Hong Kong Computer Society

Mr Gabriel LEUNG
Vice President (Community)

The Association of Licentiates of Medical Council of
Hong Kong

Miss Rainbow LI
Secretary

Office of the Privacy Commissioner for Personal Data

Mr Allan CHIANG
Privacy Commissioner for Personal Data

Sin-Hua Herbalists' & Herb Dealers' Promotion Society
Limited

Ms Grace YU Wun-pan
Director

Hong Kong Private Hospitals Association

Miss Manbo MAN
Representative

Hong Kong Registered Chinese Medicine Practitioners
Association

Ms CHAU Shuk-ying
Vice Chairperson

Mobigator Technology Group

Mr Clifford TSE
Managing Director

Dr Ashley CHENG Chi-kin

Hong Kong Dental Association

Dr Johnny WONG
Chairman, IT Committee & Task Force on eHealth
Record Committee

Hong Kong Academy of Medicine

Dr Gene TSOI Wai-wang
Representative

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Janet SHUM
Senior Council Secretary (2) 5

Ms Michelle LEE
Legislative Assistant (2) 5

Action

I. Meeting with deputations and the Administration

[File Ref.: FH CR 1/1/3781/10, LC Paper Nos. CB(3)575/13-14, CB(2)1515/13-14(01), CB(2)1538/13-14(01), CB(2)1551/13-14(01), CB(2)1580/13-14(01) to (07), CB(2)1601/13-14(01), CB(2)1609/13-14(01) to (02), CB(2)1612/13-14(01) and CB(2)1627/13-14(01) to (10)]

The Bills Committee deliberated (index of proceedings attached in **Annex**).

2. The Bills Committee received views from 21 organizations and individuals attending the meeting, and noted the written submissions from Hong Kong Society of Medical Informatics and Dr TANG Shuk-ming which/who did not attend the meeting.

Admin

3. The Administration was requested to -

- (a) provide a demonstration on the interface and operation of the Electronic Health Record Sharing System ("eHRSS");
- (b) provide a consolidated response to the issues of concern raised by the Privacy Commissioner for Personal Data, and those raised by other deputations in respect of privacy protection of the electronic health records of the registered healthcare recipients; and a separate response to other issues of concern raised by the deputations;
- (c) consider, in the light of the fact that separate storage of sensitive health records with additional access control (viz. a "safe deposit box") was not featured in Stage One of the Electronic Health Record Programme, the suggestion that registered healthcare recipients ("HCRs") should have the right to request the registered healthcare providers not to disclose or upload to eHRSS certain health data which fell within the pre-defined

Action

sharable scope;

- (d) advise whether mildly mentally handicapped HCRs would be classified as mentally incapacitated within the meaning of section 2(1) of the Mental Health Ordinance (Cap. 136); and if not, how those mildly mentally handicapped HCRs would be able to make a data access or correction request for their health records in eHRSS;
- (e) consider specifying under the proposed section 53(2)(c) the precise composition of members of the Electronic Health Record Research Board, with a view to ensuring that the 10 non-ex officio members to be appointed by the Secretary for Food and Health would be drawn from various fields; and
- (f) provide in the form of a table a summary of the new offences specific to the operation of electronic health record sharing as proposed in the Bill and the existing sanctions relating to protection of personal data as currently provided for under other laws of Hong Kong.

II. Any other business

4. Members agreed to invite the Privacy Commissioner for Personal Data to attend a future meeting of the Bills Committee to further exchange views with members on issues relating to privacy protection in eHRSS. The Chairman said that he would work out with the Clerk on the meeting arrangements and members would be informed of the details in due course.

(Post-meeting note: The fourth and fifth meetings of the Bills Committee have been scheduled for 16 June 2014 at 2:30 pm and 26 June 2014 at 10:45 am respectively.)

5. There being no other business, the meeting ended at 6:40 pm.

**Proceedings of the third meeting of
the Bills Committee on Electronic Health Record Sharing System Bill
held on Monday, 26 May 2014, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject	Action Required
000400 - 000457	Chairman	Opening remarks	
000458 - 000713	Chairman Dr KWOK Ka-ki Ms Emily LAU	Letter dated 22 May 2014 from Dr KWOK Ka-ki requesting to invite the Privacy Commissioner for Personal Data ("PCPD") to a meeting of the Bills Committee (LC Paper No. CB(2)1601/13-14(01))	
000714 - 000730	Chairman	Written submissions from an organization and an individual not attending the meeting (LC Paper Nos. CB(2)1580/13-14(04) and (05))	
000731 - 000903	Chairman	Arrangements for the presentation of views	
000904 - 001229	Hong Kong Alliance of Patients' Organizations	Presentation of views as detailed in the submission (LC Paper No. CB(2)1580/13-14(01))	
001230 - 001540	Professor John Bacon-Shone	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(01))	
001541 - 001658	Senior Citizen Home Safety Association	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(02))	
001659 - 001712	eHealth Consortium Limited	Presentation of views as detailed in the submission (LC Paper No. CB(2) 1580/13-14(02))	
001713 - 001936	Ms June LUI Wing-mui	Presentation of views - (a) supported the study of the "safe deposit box" and "patient portal" features during Stage Two of the Electronic Health Record Programme ("the eHR Programme") and urged the Administration to enhance co-operation with the information technology sector in this regard; and (b) more technical training and support should be provided to the listed and registered Chinese medicine practitioners to facilitate them to later take part in the sharing of electronic health record ("eHR") in the Electronic Health Record Sharing System ("eHRSS").	
001937 - 002209	System Aid Medical Services Limited	Presentation of views as detailed in the submission (LC Paper No. CB(2)1609/13-14(01))	

Time marker	Speaker	Subject	Action Required
002210 - 002444	Civic Party	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(03))	
002445 - 002742	The Hong Kong Medical Association	<p>Presentation of views -</p> <p>(a) supported the implementation of eHRSS which would improve mobility of health data of the registered healthcare recipients ("HCRs"), such as those relating to allergy, shared between the prescribed healthcare providers ("HCPs") in both the public and private sectors, thereby enhancing the efficiency and quality of healthcare delivery; and</p> <p>(b) taking into account that the sharable scope of eHR was not extensive, the hiding of certain health data from eHR of registered HCRs would affect healthcare delivery and the mutual trust between HCPs and HCRs, and that healthcare professionals would respect confidentiality of health data of HCRs in any case, it had reservation on the issue of incorporating a "safe deposit box" feature in eHRSS. In fact, apart from the names of disease, other data contained in eHR such as medications might also provide inferences to the disease.</p>	
002743 - 003116	Hong Kong Doctors Union	Presentation of views as detailed in the submission (LC Paper No. CB(2)1609/13-14(02))	
003117 - 003326	Arpmha	<p>Presentation of views -</p> <p>(a) supported the early implementation of eHRSS to realize the concept of "records follow patients" and facilitate delivery of healthcare by allowing the convenient sharing of HCR's health data stored therein, in particular those relating to medication, among prescribed HCPs in the public and private sectors; and</p> <p>(b) given that the voluntary nature of eHRSS had already provided flexibility for HCRs to join and choose to give sharing consent only to those HCPs that they trusted, it was not necessary nor helpful to HCRs to provide a "safe deposit box" feature in eHRSS.</p>	
003327 - 003455	Mr NG Kwok-keung	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(04))	
003456 - 003746	Hong Kong Computer Society	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(05))	

Time marker	Speaker	Subject	Action Required
003747 - 003810	The Association of Licentiates of Medical Council of Hong Kong	Presentation of views as detailed in the submission (LC Paper No. CB(2) 1612/13-14(01))	
003811 - 004741	Chairman Office of the Privacy Commissioner for Personal Data	Presentation of views as detailed in the submission (LC Paper No. CB(2)1580/13-14(03))	
004742 - 005139	Sin-hua Herbalists' & Herb Dealers' Promotion Society Limited	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(06))	
005140 - 005328	Hong Kong Private Hospitals Association	Presentation of views - (a) supported the implementation of eHRSS which enabled the sharing of registered HCRs' health data by prescribed HCPs in the public and private sectors, thereby avoiding duplication of tests, reducing the risk of miscommunication and improving the accuracy of diagnosis; and (b) urged the Administration to enhance public education to promote public understanding about eHR sharing and ensure the putting in place of comprehensive risk management measures and privacy safeguards to instill public confidence in eHRSS.	
005329 - 005629	Hong Kong Registered Chinese Medicine Practitioners Association	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(07))	
005630 - 010011	Mobigator Technology Group	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(08))	
010012 - 010332	Dr Ashley CHENG Chi-kin	Presentation of views - (a) supported the implementation of eHRSS which would enhance efficiency and quality of healthcare delivery and improve the accuracy of diagnosis; (b) considered it not necessary to incorporate a "safe deposit box" feature in eHRSS as it was incumbent upon the healthcare professionals to respect the privacy of their patients. The withholding of certain health data of the registered HCRs might affect the mutual trust between HCPs and HCRs and even lead to wrong diagnosis or treatments. For instance, a dentist applying anesthetics to a patient might need to know about his/her eye disease. Even if a full picture could not be practically achieved in	

Time marker	Speaker	Subject	Action Required
		<p>eHRSS, it would still be best to be as close to that as possible; and</p> <p>(c) apart from the names of diseases, other data contained in HCR's eHR (e.g. medications) might also provide inferences to the diseases.</p>	
010333 - 010630	Hong Kong Dental Association	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(09))	
010631 - 010913	Hong Kong Academy of Medicine	Presentation of views as detailed in the submission (LC Paper No. CB(2)1627/13-14(10))	
010914 - 012349	Chairman Admin	The Administration's brief response to the views expressed by deputations; and its undertaking to provide a consolidated response to the issues of concern raised by PCPD and those raised by other deputations in respect of privacy protection of eHR of registered HCRs, and a separate response to other issues of concern raised by the deputations.	Admin
012350 - 013114	Chairman Ms Emily LAU Hong Kong Doctors Union The Hong Kong Medical Association	<p>Ms Emily LAU's concurrence with PCPD's views on the Bill, as well as Professor John Bacon-Shone's concern about whether the 10 non-ex officio members of the Electronic Health Record Research Board to be appointed by the Secretary for Food and Health under clause 53(2)(c) would be drawn from various fields; and her request for a written response from the Administration in this regard.</p> <p>Ms Emily LAU's concern about the willingness and technical readiness of HCPs, in particular medical practitioners in solo or group practice, to participate in eHRSS.</p> <p>The Hong Kong Doctors Union's advice that it was not common for private doctors to use electronic medical record ("eMR") systems as this was not conducive to maintaining eye contact with patients; and The Hong Kong Medical Association's advice that its surveys indicated a rising percentage of private doctors were using computers at their clinics (reaching 60% recently) and about 600 private doctors were using the Association's clinic management system ("CMS").</p>	Admin
013115 - 013627	Chairman Prof Joseph LEE	<p>Prof Joseph LEE's view that defining the ownership of eHR kept in eHRSS in the Bill could remove the misunderstanding that registered HCRs had ownership rights over their eHR.</p> <p>Prof Joseph LEE's request for the Administration to provide a demonstration on the interface and operation of eHRSS and to consider his suggestion that registered HCRs should have the right to request</p>	Admin

Time marker	Speaker	Subject	Action Required
		prescribed HCPs not to disclose or upload to eHRSS certain health data which fell within the pre-defined sharable scope.	
013628 - 014029	Chairman Dr Elizabeth QUAT Office of the Privacy Commissioner for Personal Data	<p>Dr Elizabeth QUAT's expression of agreement with the views expressed by PCPD on the Bill; and her view that the Bills Committee should invite PCPD to a future meeting of the Committee to solicit its views on the response to be provided by the Administration.</p> <p>In response to Dr Elizabeth QUAT's enquiry, PCPD's advice that in order to provide for comprehensive protection of the highly sensitive data contained in eHR, it was necessary to extend the scope of the offence under the Bill to include unauthorized access by non-computer means and create a specific offence to govern misuse of eHR.</p>	
014030 - 014059	Chairman	Extension of the meeting for five minutes	
014100 - 014658	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's concurrence with PCPD and Professor John Bacon-Shone's views on the need to provide a "safe deposit box" feature in eHRSS.</p> <p>Dr Fernando CHEUNG's view that a person authorized in writing by the registered HCRs, as the data subject of the relevant personal data kept in eHRSS, should be allowed to make a data access request on behalf of these HCRs; and the Administration's response that it was open-minded as to whether clause 38 of the Bill, which in effect disallowed such arrangement, should be retained or removed.</p> <p>In response to Dr Fernando CHEUNG's enquiry, the Administration's undertaking to provide a written response to advise whether mildly mentally handicapped HCRs would be classified as mentally incapacitated within the meaning of section 2(1) of the Mental Health Ordinance (Cap. 136); and if not, how those mildly mentally handicapped HCRs would be able to make a data access or correction request for their health records in eHRSS.</p>	Admin
014659 - 015340	Chairman Mr Alan LEONG Professor John Bacon-Shone Hong Kong Academy of Medicine	<p>Mr Alan LEONG's expression of the Civic Party's main concern on the Bill, which was related to whether there were adequate safeguards for privacy under eHRSS.</p> <p>In response to Mr Alan LEONG, Professor John Bacon-Shone's elaboration on overseas experiences on access control over sensitive data in eHR sharing, and his undertaking to provide a further submission in this regard.</p>	

Time marker	Speaker	Subject	Action Required
		<p>In response to Mr Alan LEONG, Hong Kong Academy of Medicine's view that a registered HCP had the right to request a prescribed HCP not to upload certain health data to eHRSS for sharing, and it would be up to the HCP concerned to decide whether such request should be acceded to.</p>	
015341 - 015353	Chairman	Further extension of the meeting for 10 minutes	
015354 - 015959	<p>Chairman Miss Alice MAK The Hong Kong Medical Association Admin</p>	<p>Miss Alice MAK's view on the need to encourage private doctors' participation in eHRSS, and provide a "safe deposit box" feature and "patient portal" in eHRSS.</p> <p>The Hong Kong Medical Association's reiteration that an increasing number of private doctors were willing to use computers in their clinics, and its expression of support for the provision of a "patient portal" in eHRSS.</p> <p>The Administration's advice that the two-stage eHR Programme straddled from 2009-2010 to 2018-2019. As the Administration had advised when it sought funding approval for the Stage One programme from the Finance Committee of the Legislative Council in 2009, the target for Stage One was to develop the basic core infrastructure to enable eHR sharing. The "safe deposit box" and "patient portal" were not included in the scope of Stage One, but would be considered in Stage Two.</p>	
020000 - 020741	<p>Chairman Dr LEUNG Ka-lau Admin</p>	<p>Dr LEUNG Ka-lau's remarks that eHRSS, which was not designed for direct sharing of the medical records kept in the respective eMR systems of different HCPs in the public and private sectors under regulatory control, was different from some of the overseas practices in eHR sharing.</p> <p>In response to Dr LEUNG Ka-lau's enquiries, the Administration's advice that it was necessary to introduce a new legislation to provide for the establishment of eHRSS, the sharing and using of data and information contained therein and the protection of eHRSS; and its undertaking to provide in the form of a table a summary of the new offences specific to the operation of eHR sharing as proposed in the Bill and the existing sanctions relating to protection of personal data as currently provided for under the laws of Hong Kong.</p>	<p>Admin</p>

Time marker	Speaker	Subject	Action Required
020742 - 020809	Chairman	Arrangements for future meetings	

Council Business Division 2
Legislative Council Secretariat
25 August 2014