

立法會
Legislative Council

LC Paper No. CB(2)841/15-16
(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 twenty-second meeting
held on Monday, 1 June 2015, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon Charles Peter MOK, JP (Chairman)
Hon Emily LAU Wai-hing, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon CHEUNG Kwok-che
Hon Alan LEONG Kah-kit, SC
Hon WU Chi-wai, MH
Hon CHAN Han-pan, JP
Dr Hon Fernando CHEUNG Chiu-hung
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Members absent : Hon Cyd HO Sau-lan, JP
Dr Hon LEUNG Ka-lau
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP

Public Officers attending : Item I
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 N T CHEUNG
Consultant (eHealth)
eHealth Record Office
Food and Health Bureau

Mrs Juliet CHENG
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
Acting Senior Assistant Law Officer (Civil Law)
Department of Justice

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 the Administration

[LC Paper Nos. CB(2)1515/13-14(01), CB(2)1551/13-14(01), CB(2)837/14-15(01), CB(2)911/14-15(01), CB(2)956/14-15(01), CB(2)986/14-15(01), CB(2)1019/14-15(02), CB(2)1145/14-15(03), CB(2)1215/14-15(03) to (04), CB(2)1543/14-15(01), CB(2)1552/14-15(01), CB(2)1583/14-15(01) to (04) and CB(3)575/13-14]

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

Committee stage amendments

2. The Bills Committee had not come to any unanimous view on whether the proposed Committee stage amendments ("CSAs") of Dr LEUNG Ka-lau, the discussion draft of which were set out in the Appendix to LC Paper No. CB(2)1543/14-15(01), should be moved in the name of the Bills Committee. It would be up to Dr LEUNG Ka-lau to decide whether to move the proposed CSAs in his own name.

3. The Bills Committee completed scrutiny of the draft CSAs to the Bill to be proposed by the Administration, and did not raise objection to the proposed amendments.

Follow-up actions required of the Administration

Admin

4. The Bills Committee requested the Administration to -

- (a) in respect of the CSAs to clause 58(3)(b) which provided for, among others, protection of an employee of a body corporate established by the Hospital Authority ("HA") under Section 5(n) of the Hospital Authority Ordinance (Cap. 113), appointed by the Commissioner for the Electronic Health Record under clause 48(3), from civil liability, advise the nature of the body corporate so established (whether public or private, and whether the functions of such body corporate were within those to be performed by HA under the Bill); its relationship with HA including whether there was a contract between HA and the body corporate; whether HA would incur any civil liability for act done or default made by such body corporate and its employees; and the reason why the protection was to be conferred on the employees of such body corporate; and whether this might constitute a departure from the existing legal policy that the protection under section 23 of the Hospital Authority Ordinance

Action

would apply only to members of HA and members of committees only; and

- (b) provide a written response to the views expressed by the Chairman of the Working Group on Long Term Care Policy under the Elderly Commission cum Chief Executive Officer of Haven of Hope Christian Service in his submission to the Bills Committee (LC Paper No. CB(2)1608/14-15(02)).

5. Members agreed that there would be no need to hold another meeting to discuss the above response to be provided by the Administration unless warranted.

Legislative timetable

6. Members agreed that subject to the response to be provided by the Administration under paragraph 4 above, the Bills Committee would report its deliberations to the House Committee at its meeting on 5 or 19 June 2015.

7. The Bills Committee noted the Administration's intention to resume the Second Reading debate on the Bill in the 2014-2015 legislative session.

II. Any other business

8. There being no other business, the meeting ended at 3:29 pm.

Council Business Division 2
Legislative Council Secretariat
5 February 2016

**Proceedings of the twenty-second meeting of
the Bills Committee on Electronic Health Record Sharing System Bill
held on Monday, 1 June 2015, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000815 - 000911	Chairman	Opening remarks	
000912 - 001349	Chairman Admin	Briefing by the Administration on its response to issues raised at the meeting on 26 May 2015 and in the letter dated 27 May 2015 from the legal adviser to the Bills Committee in respect of protection of public officers etc. (paragraphs 2 to 5 of LC Paper No. CB(2)1583/14-15(03)).	
001350 - 002559	Chairman Admin ALA4 Ms Emily LAU	<p>Members noted that the Administration would move Committee stage amendments ("CSAs") to amend clause 58(3)(b) to the effect that the protection from civil liability would be specifically provided for an employee of the Hospital Authority ("HA"), or an employee of a body corporate established by HA under section 5(n) of the Hospital Authority Ordinance (Cap. 113), appointed by the Commissioner for the Electronic Health Record ("eHRC") under clause 48(3).</p> <p>The Legal Adviser to the Bills Committee's enquiry on whether the proposed CSA to clause 58(3)(b) was a departure from existing legal policy as the protection under section 23 of the Hospital Authority Ordinance would apply only to members of HA and members of committees but not members of its body corporates. She sought clarification from the Administration as to whether the body corporate established under section 5(n) of the Hospital Authority Ordinance was of a public or private nature, and its relationship with HA including whether there was a contract between HA and the body corporate and whether HA would incur any civil liability for act done or default made by such body corporate and its employees.</p> <p>The Administration's advice that at present, HA had two principal subsidiaries in operation, namely HACM Limited and eHR HK Limited. The principal activity or function of HACM Limited was to steer the development and delivery of Chinese medicine services, whereas that of eHR HK Limited was to act as a custodian to hold, maintain and license the intellectual property rights and assets related to the Electronic Health Record Programme ("eHR Programme"). It should be noted that clause 58(3), as amended, was not intended to confer protection upon all employees of HA (or all employees of HA's body corporates) per se generally and automatically, but only upon those employees who assisted eHRC to (purportedly) perform a function or exercise a power under the Ordinance (if enacted), appointed by eHRC under clause 48(3).</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>The Administration was requested to advise in writing -</p> <ul style="list-style-type: none"> (a) the nature of the body corporate so established (whether public or private, and whether the functions of such body corporate were within those to be performed by HA under the Bill); (b) the body corporate's relationship with HA including whether there was a contract between HA and the body corporate; whether HA would incur any civil liability for act done or default made by such body corporate and its employees; and (c) the reason why the protection was to be conferred on the employees of such body corporate; and whether this might constitute a departure from the existing legal policy that the protection under section 23 of the Hospital Authority Ordinance would apply only to members of HA and members of committees only. <p>Members agreed that there would be no need to hold another meeting to discuss the above response to be provided by the Administration unless warranted.</p>	<p>Admin</p>
002560 - 003034	Chairman Admin	Briefing by the Administration on its response to issues raised at the meeting on 26 May 2015 in respect of the draft CSAs proposed by Dr LEUNG Ka-lau (paragraphs 6 to 7 of LC Paper No. CB(2)1583/14-15(03)).	
003035 - 003609	Chairman Admin Ms Emily LAU Mr CHAN Han-pan	<p>Members noted that in response to the concern raised by Dr LEUNG Ka-lau on the proposed new clauses 16A and 16B at the last meeting, the Administration would add the phrase "Despite anything contained in sections 12 and 16" at the beginning of the proposed new clause 16A(1) for the sake of clarity.</p> <p>The Chairman invited members' views on whether the proposed CSAs of Dr LEUNG Ka-lau, the discussion draft of which were set out in the Appendix to LC Paper No. CB(2)1543/14-15(01), should be moved in the name of the Bills Committee.</p> <p>Ms Emily LAU held no particular views. Mr CHAN Han-pan held the view that Dr LEUNG Ka-lau's proposed CSAs would undermine the policy objective of the Bill to promote two-way sharing of electronic health records amongst public and private healthcare providers ("HCPs") for the benefit of healthcare recipients. He did not agree that the CSAs should be moved in the name of the Bills Committee.</p> <p>The Chairman concluded that the Bills Committee had not come to any unanimous view on the issue. It would be up to Dr LEUNG Ka-lau to decide whether to move the proposed CSAs in his own name.</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
003610 - 004140	Chairman Admin ALA4	<p>Briefing by the Administration on the draft CSAs proposed by the Administration (LC Paper No. CB(2)1583/14-15(04)).</p> <p>Members noted that apart from the proposed CSAs which had been considered by the Bills Committee at previous meetings or at the earlier part of this meeting, the Administration would move CSAs to delete the word "其" in the Chinese text of clause 21(1) and substitute "該提供者就其某登記" to better align with the expression "a registration" in the English text of the clause.</p> <p>In response to the Legal Adviser to the Bills Committee, the Administration's affirmation that the Office of the Privacy Commissioner for Personal Data was in agreement with the drafting of the proposed new clauses 16A, 16B and 35A.</p>	
004141 - 005655	Chairman Ms Emily LAU Admin Ir Dr LO Wai-kwok	<p>Members noted the Administration's verbal response to the concerns raised by Dr LAM Ching-choi, Chief Executive Officer of Haven of Hope Christian Service and Chairman of the Working Group on Long Term Care Model of the Elderly Commission, in his letter dated 31 May 2015 to the Bills Committee which was tabled at the meeting (LC Paper No. CB(2)1608/14-15(02)) and the Administration's plan to meet with Dr LAM Ching-choi in the near future to exchange views on the sharing of eHR in medical and social service settings. The Administration was requested to provide a written response to address the views expressed in the letter.</p> <p>In response to the Chairman's enquiry about the participation of welfare organizations that provided healthcare in the Electronic Health Record Sharing System ("eHRSS"), the Administration's advice that an HCP that provided healthcare and satisfied any of the conditions specified in clause 17 could apply to eHRC to be registered as an HCP for eHRSS. In the future publicity, the Administration would also highlight the benefits of eHRSS to elderly HCRs.</p> <p>Referring to Dr LAM Ching-choi's concern about the issue of equal access to eHR, Ir Dr LO Wai-kwok opined that a proper balance should be struck between protecting data privacy for registered HCRs and ensuring the completeness and integrity of the health data of eHRSS. He was of the view that the new clauses 16A and 16B proposed by the Administration could address the concern raised by Dr LEUNG Ka-lau in his proposal for amending the Bill for safeguarding the data privacy of the registered HCRs.</p> <p>In response to the enquiries of the Chairman and Ms Emily LAU about the timetable for eHRSS to commence operation after the passage of the Bill, the Administration's advice that several months of preparation time would be required upon the passage of the Bill before HCPs and HCRs could start applying for registration for eHRSS, which would be end-2015 the earliest as it stood. The timing for the registered HCPs (to which the registered HCRs had given a sharing</p>	Admin

Time marker	Speaker	Subject(s)/Discussion	Action required
		consent) to provide to, and obtain from, eHRSS any sharable data of the HCRs concerned would depend on whether their local electronic medical record systems were technically capable of doing so.	
005656 - 005949	Chairman Admin Ms Emily LAU	Completion of scrutiny work; date to report to the House Committee and resume Second Reading debate on the Bill	
<i>Agenda item II: Any other business</i>			
005950 - 010042	Chairman	Closing remarks	

Council Business Division 2
Legislative Council Secretariat
5 February 2016