

**Bills Committee on Electronic Health Record Sharing System Bill**

**List of follow-up actions arising from the discussion  
at the meeting on 16 June 2014**

The Administration was requested to -

- (a) advise whether the provisions under the proposed subsection 3(4) which specified that prescribed healthcare provider ("HCP") was the last resort of substitute decision makers for a healthcare recipient ("HCR") who was a mentally incapacitated person or did not have the capability to provide an express joining or sharing consent were consistent with section 59ZF of the Mental Health Ordinance (Cap. 136) under which a registered medical practitioner or registered dentist could carry out a treatment without the consent of a mentally incapacitated person or that person's guardian if the treatment was in the best interest of that person, as well as the recommendations relating to substitute decision-making for persons in a coma or vegetative state put forth by the Law Reform Commission in its report on "Substitute Decision-Making and Advance Directives in Relation to Medical Treatment";
- (b) explain how far the relevant provisions of the Personal Data (Privacy) Ordinance (Cap. 486) could enable an HCP to access the health data of an HCR without the consent of that HCR or a relevant person on his/her behalf when the circumstances warranted such access, and whether this access right had been reflected in the Bill;
- (c) clarify whether an immediate family member of an HCR who could give a joining or sharing consent on behalf of that HCR over the phone at the relevant time was eligible to become the substitute decision maker of that HCR under the proposed subsection 3(2)(d) or 3(4)(f);
- (d) provide the executive summary of the study conducted by The Chinese University of Hong Kong in 2013 on the Public Private Interface - Electronic Patient Record Sharing Pilot Project, and explain how far the current legislative proposals had made reference to the experience gained from the Project;
- (e) sum up the various issues of concern relating to the provision of a "safe deposit box" feature in the Electronic Health Record Sharing System, including, among other things, the views gathered during the public consultation on the "Legal, Privacy and Security Framework for

Electronic Health Record Sharing" conducted from December 2011 to February 2012, the information technology architecture required for the provision of such feature, and a detailed account of the overseas experiences in handling the legal, technical and implementation issues arising from the provision of an access control over patients' electronic health records; and

- (f) advise whether the Commissioner for the Electronic Health Record would consult the Legislative Council in developing the code of practice to be issued by him/her under the proposed section 51 and whether he/she would by notice in the Gazette identify the code so issued, and if not, the rationale for not doing so, as well as whether there would be any legal implications if the provisions of the code were not complied with.

Council Business Division 2  
Legislative Council Secretariat  
20 June 2014