



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

Tel. No.: (852) 3509 8910

Fax No.: (852) 2537 7319

29 January 2015

Dr. SHIH Tai Cho
President, The Hong Kong Medical Association
Duke of Windsor Social Service Building, 5th Floor
15 Hennessy Road, Hong Kong

Dear Dr. SHIH,

Electronic Health Record Sharing System Bill

Thank you for your letter dated 8 January 2015, expressing the Hong Kong Medical Association (HKMA)'s concern about the recent discussion of privacy issues relating to the Electronic Health Record Sharing System (eHRSS) Bill.

As reiterated by the Government on various occasions, the development of a territory-wide eHRSS is one of our major initiatives to enhance the efficiency and quality of healthcare delivery in Hong Kong. Since the establishment of the Steering Committee on eHR Sharing in 2007, representatives of HKMA have actively participated in the deliberation of the committee and its working groups. We are thankful to the HKMA for its valuable advice and support in promoting the concept of eHR to healthcare professionals, formulation of the framework of operation of eHRSS and implementation of various stage 1 development projects.

The eHRSS Bill was drafted based on the outcome of the public consultation on the "Legal, Privacy and Security Framework for eHR Sharing" conducted in 2011-12, with inputs from our committee and working group

members and experts such as the Office of the Privacy Commissioner for Personal Data (PCPD). In the development of eHRSS, the consensus of the Government and the stakeholders is that privacy protection should be accorded paramount importance. We have accordingly incorporated the principle in the proposed legislation as well as the system design and operational workflow of eHRSS.

The eHRSS Bill was introduced into the Legislative Council in April 2014. During the ten meetings of the eHRSS Bills Committee held to date, certain new privacy-related comments and suggestions were raised by the PCPD and members of the Bills Committee. Following a few rounds of discussion, the majority of the new issues raised have been addressed. The Government is also prepared to propose corresponding amendments to the Bill where appropriate. The two issues mentioned in your letter are currently under discussion and I would like to set out below some background and updates for your information.

On the first issue, the PCPD's suggestion is that the Government should add a new clause to set out the "need-to-know" principle. We are working with PCPD on the wording of a new clause (Clause 35A) to reflect the underlying concept more explicitly. Our objective is to stipulate that only "relevant" healthcare professionals who perform healthcare to a patient could access his/her health data and that the health data accessed should be "relevant" to the performance of healthcare to the patient.

As for the second issue, the concern is about possible viewing of a patient's eHR in the eHRSS by the staff of a public sector Healthcare Provider (HCP), namely the Hospital Authority (HA) or the Department of Health (DH), even if that patient uses only private healthcare services. The crux of the matter is whether the eHRSS may expose the personal data of a healthcare recipient against his will.

To address the concern, we consider it necessary to clarify some misunderstanding about the new system. First of all, joining the eHRSS is completely voluntary. A healthcare recipient (i.e. patient) will have to give an expressed and informed consent to join the eHRSS. If a patient "uses only private healthcare services" and does not wish HA/DH to see or share his/her record, he/she should simply not join the eHRSS.

Secondly, our design for a healthcare recipient to give a "sharing" consent to the HA and DH for them to access his/her record at the same time of his/her participation is to foster two-way sharing of eHR between public and private HCPs. The HA and DH, being the public sector HCPs serving the largest number of patients in Hong Kong, have a vast amount of useful health

data. If a patient is using both public and private healthcare services but his/her eHR does not contain HA/DH's health data, then the content of the patient's eHR would be of limited use and may not serve the purpose of providing continuity of care to the patient.

The Government and HA have been operating a Public Private Interface-Electronic Patient Record (PPI-ePR) pilot project since April 2006, enabling participating private HCPs to access a defined scope of patients' data extracted from the HA's electronic patient records. The experience of the PPI-ePR pilot project shows that making the health data in the public HCPs accessible to private healthcare providers with patient's consent is welcomed by both patients and doctors. More importantly the arrangement of automatic consent for HA/DH would also facilitate the registration process and reduce the burden on both patients and healthcare providers. The arrangement was set out in our public consultation document and we did not receive any concerns about the proposed arrangement. It should be emphasized that even with a sharing consent, the access to health data by a particular healthcare professional of an HCP including HA and DH would still be subject to the need-to-know principle.

Building on the success of the one-way PPI-ePR pilot, the Government considers it the right time to further expand electronic health record sharing to two-way and enhance the benefits for patients. We have completed the development of the core sharing infrastructure and other necessary technical preparation. There are safeguards in the eHRSS Bill and the design of the system to protect the health data from unnecessary and excessive use. The passage of the bill would bring into operation proper legislative protection for patients' privacy. The early commencement of operation of stage 1 eHRSS would also pave the way for functional improvements and enhancements to meet users' needs to be developed in stage 2. In this regard, we look forward to the continual support of members of the HKMA in the years ahead.



(Sidney CHAN)

Head (eHealth Record)

c.c. Bills Committee on the eHRSS Bill, Legislative Council
(Attn.: Ms Maisie LAM, Clerk to the Bills Committee)