

**立法會**  
***Legislative Council***

LC Paper No. CB(3) 806/14-15

Ref : CB(3)/B/FH/3 (13-14)

Tel : 3919 3306

Date : 30 June 2015

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 8 July 2015**

**Electronic Health Record Sharing System Bill**

**Committee stage amendments**

The Second Reading debate on the above Bill will be resumed at the Council meeting of 8 July 2015. Subject to the Bill receiving Second Reading, the President has given permission for the Secretary for Food and Health to move proposed amendments to the Bill at its Committee stage.

2. As directed by the President, the proposed amendments are attached for Members' consideration.

(Boris LAM)  
for Clerk to the Legislative Council

Encl.

# Electronic Health Record Sharing System Bill

## Committee Stage

### Amendments to be moved by the Secretary for Food and Health

| <u>Clause</u>   | <u>Amendment Proposed</u>  |
|-----------------|--|
| 2(1)            | In the definition of <i>healthcare</i> , by deleting “in Hong Kong”.   |
| 2(1)            | In the definition of <i>healthcare recipient</i> , by adding “in Hong Kong” after “be performed”.  |
| 2(1)            | In the definition of <i>registered healthcare provider</i> , in paragraph (b), by deleting “bureau or”.  |
| 2(1)            | In the definition of <i>registration</i> , in paragraph (c), by deleting “bureau or” (wherever appearing).   |
| 2(1)            | In the definition of <i>use</i> , by adding “、用” after “使用”.   |
| 2(1)            | By deleting the definition of <i>immediate family member</i> .   |
| 2(1)            | By adding in alphabetical order—<br>“ <i>family member</i> (家人), in relation to a healthcare recipient, means an individual who is related to the recipient by blood, marriage, adoption or affinity;<br><i>sharing restriction request</i> (互通限制要求) means a request made under section 16A(1)(a);”. |
| 3(2)(b) and (c) | In the Chinese text, by deleting “法庭” and substituting “法院”.   |
| 3(2)(d)         | By deleting “an immediate family member of the healthcare recipient” and substituting “a family member of the healthcare   |

recipient, or a person residing with the healthcare recipient,”.

- 3(3)(d) By deleting the full stop and substituting a semicolon.
- 3(3) By adding—
- “(e) being incapable of making a sharing restriction request at the time referred to in paragraph (g) or (h) of the definition of *relevant time* in subsection (5).”.
- 3(4)(e) In the Chinese text, by deleting “法庭” and substituting “法院”.
- 3(4)(f) By deleting “an immediate family member of the healthcare recipient” and substituting “a family member of the healthcare recipient, or a person residing with the healthcare recipient,”.
- 3(5) In the definition of *relevant time*, in paragraph (f), by deleting the full stop and substituting a semicolon.
- 3(5) In the definition of *relevant time*, by adding—
- “(g) in relation to a sharing restriction request that is made under section 16A(1)(a), the time at which the request is made;
- (h) in relation to a request to remove a restriction that is made under section 16A(1)(b), the time at which the request is made.”.
- 10(1) By adding “for a period of not more than 28 days” before “if the”.
- 10 By adding—
- “(1A) Despite subsection (1), if the Commissioner considers it appropriate, the Commissioner may extend the period of suspension under that subsection for a further period of not more than 28 days by notice in writing to the specified person.”.
- 11(2) By deleting everything before “the Commissioner” and substituting—

“(2) Except for a cancellation under subsection (1)(e),”.

11(2) By deleting paragraph (a).

11(2)(b) By deleting “takes” and substituting “is to take”.

11 By adding—

“(2A) The specified person may, within 14 days after the date of the notice (or such longer period as the Commissioner may allow), make representations to the Commissioner to object to the cancellation in the manner specified in the notice.

(2B) The Commissioner must not cancel the registration unless—

(a) the specified person has not made any representations under subsection (2A); or

(b) the Commissioner has considered the representations and informed the specified person of the decision of cancellation.”.

New By adding—

### **“Division 3A—Sharing Restriction**

#### **16A. Request for sharing restriction**

(1) Despite anything contained in sections 12 and 16 and subject to subsections (2) and (3), a registered healthcare recipient, or a substitute decision maker of a registered healthcare recipient, may in relation to the health data of the healthcare recipient make—

(a) a request to restrict the scope of data sharing;  
or

(b) a request to remove a restriction on the scope of data sharing.

(2) If the healthcare recipient is a minor, the request must be made by a substitute decision maker of the healthcare recipient unless the Commissioner is satisfied that the recipient is capable of making

the request.

- (3) If the healthcare recipient is aged 16 or above and is incapable of making the request, the request must be made by a substitute decision maker of the healthcare recipient.
- (4) A request made by a substitute decision maker of a registered healthcare recipient is made on behalf of and in the name of the recipient.
- (5) In making a request, a substitute decision maker of a registered healthcare recipient must have regard to the best interests of the recipient in the circumstances.
- (6) A request must be made to the Commissioner in the form and manner specified by the Commissioner.
- (7) The Commissioner must notify the requestor in writing of the date on which the requested restriction, or the requested removal of restriction, takes effect.

**16B. Commissioner to specify sharing restriction**

- (1) The Commissioner must specify the types of restriction in respect of which a person may make a request under section 16A(1).
- (2) The Commissioner must make copies of a document setting out the specified types of restriction available to the public (in hard copy or electronic form).”.

17(1) and (2) By adding “in Hong Kong” after “service location”.

17(5)(e) By adding “or” after the semicolon.

17(5)(f) By deleting “; or” and substituting a full stop.

17(5) By deleting paragraph (g).

- 19(2) By adding “in Hong Kong” after “provides healthcare”.
- 20 In the heading, by deleting “**bureaux and**”.
- 20(1) By deleting “Government bureau or” and substituting “Government”.
- 20(1) By deleting “operation of the bureau or department involves providing healthcare” and substituting “department provides a healthcare professional to perform healthcare for any healthcare recipient”.
- 21(1) In the Chinese text, by deleting “其” and substituting “該提供者就其某項登記”.
- 22(1) By adding “for a period of not more than 28 days” before “if the”.
- 22 By adding—  
    “(1A) Despite subsection (1), if the Commissioner considers it appropriate, the Commissioner may extend the period of suspension under that subsection for a further period of not more than 28 days by notice in writing to the healthcare provider.”.
- 22(3) By deleting “bureau or”.
- 23(2) By deleting everything before “Commissioner” and substituting—  
    “(2) The”.
- 23(2) By deleting paragraph (a).
- 23(2)(b) By deleting “takes” and substituting “is to take”.
- 23(2)(c) In the Chinese text, by deleting “該項” and substituting “上述”.

- 23 By adding—
- “(2A) The healthcare provider may, within 14 days after the date of the notice (or such longer period as the Commissioner may allow), make representations to the Commissioner to object to the cancellation in the manner specified in the notice.
  - (2B) The Commissioner must not cancel the registration unless—
    - (a) the healthcare provider has not made any representations under subsection (2A); or
    - (b) the Commissioner has considered the representations and informed the healthcare provider of the decision of cancellation.”.
- Part 3 In Division 4, in the heading, by deleting “**of Electronic Health Record Sharing System**” and substituting “**for Access to Electronic Health Record**”.
- 35 By deleting the clause.
- New By adding in Part 3—
- “**35A. Prescribed healthcare provider’s duties to restrict access to health data**
- (1) This section applies if a prescribed healthcare provider is given a sharing consent by a registered healthcare recipient or a substitute decision maker of a registered healthcare recipient.
  - (2) The healthcare provider must take reasonable steps to ensure that—
    - (a) access to any health data of the healthcare recipient is restricted to a healthcare professional of the healthcare provider who may perform healthcare for the recipient; and
    - (b) the access is restricted to the health data that may be relevant for performing healthcare for the recipient.
  - (3) However, for complying with a data access request or data correction request under Part 5 of the Privacy Ordinance, the healthcare provider is not to be treated as contravening the requirements under

subsection (2) even if access to the health data is granted to a person other than the healthcare professional.”.

- 37(2) By deleting paragraph (a).
- 38 By deleting the clause.
- 43(1)(a) In the Chinese text, by deleting “捏” and substituting “捏”.
- 46(8)(b) and (c) In the English text, by deleting “healthcare” and substituting “health care”.
- 46(9) In the definition of *direct marketing*, by deleting the full stop and substituting a semicolon.
- 46(9) By adding in alphabetical order—  
*“health care services* (醫護服務) has the same meaning as in sections 35B and 35I of the Privacy Ordinance.”.
- 50(1) By deleting “registered” and substituting “prescribed”.
- 50(1)(b) By deleting “healthcare provider’s possession” and substituting “possession or under the control of the healthcare provider”.
- 53 By adding—  
 “(2A) A person may be appointed as a non-ex officio member only if the person is, in the Secretary’s opinion, a person—  
 (a) having expertise or experience in healthcare, privacy protection, statistics, research, law or information technology;  
 (b) representing the interests of healthcare recipients; or  
 (c) having other experience that would render the person suitable for the appointment.”.



- 53(3) By deleting “the period” and substituting “a term of not exceeding 5 years”.
- 53 By adding—
- “(3A) A non-ex officio member is eligible for reappointment on the expiry of a term.”.
- 53 By adding—
- “(4A) The Secretary may terminate the office of a non-ex officio member if satisfied that—
- (a) the member has ceased to be of the capacity because of which he or she was appointed; or
- (b) the member is otherwise unable or unfit to perform the functions of a member of the Board.
- (4B) Every appointment or termination under this section is to be notified in the Gazette.”.
- 57(1) By deleting “is not liable” and substituting “does not incur any civil liability”.
- 57 By deleting subclause (2).
- 58(3) By deleting paragraph (b) and substituting—
- “(b) an employee of the Hospital Authority, or an employee of a body corporate established by the Hospital Authority under section 5(n) of the Hospital Authority Ordinance (Cap. 113), appointed by the Commissioner under section 48(3).”.