Electronic Health Record Sharing System Bill
Debate and voting arrangements

First debate	**:**	Clauses with no amendment	–	Clauses 1, 4, 5, 6, 8, 9, 13, 14, 15, 18, 24 to 34, 36, 39 to 42, 44, 45, 47, 48, 49, 51, 52, 54, 55, 56 and 59 to 62
Voting	**:**	To vote on the above clauses standing part of the Bill		
Second debate	**:**	Clauses with amendments proposed by the Secretary for Food and Health ("SFH")	–	Clauses 2, 3, 10, 11, 17, 19 to 23, heading of Division 4 of Part 3, Clauses 35, 37, 38, 43, 46, 50, 53, 57 and 58

Joint debate on the original clauses and the amendments thereto.

Clause 2(1)
- to amend the definition of **healthcare** to relax the geographical restriction on the location of the healthcare performed (i.e. no longer has to be in Hong Kong), so as to allow access to the Electronic Health Record Sharing System ("the System") for healthcare in overseas places under certain special circumstances;
- to amend the definition of **healthcare recipient** ("HCR") to stipulate that it is an individual for whom healthcare is performed in Hong Kong, and to make textual amendment to align the Chinese and English texts;
- to amend the English text of the definition of **immediate family member** and the Chinese text of the definition of "使用" to align the relevant Chinese and English texts; and
- to add the definition of **sharing restriction request** to restrict the scope of sharing of the health data of a registered HCR under new Clause 16A(1)(a).

Clauses 2(1), 20 and 22
- to delete "bureau" in the definitions of **registered healthcare provider** and **registration,** the heading of Clause 20 and Clause 20(1) and Clause 22(3), and to make consequential textual amendments; and
- to amend Clause 20(1) to subject Government departments to similar criteria on the provision of healthcare as required of other healthcare providers ("HCPs") for registration with the System under Clause 17.

Clause 3
- to amend Clauses 3(2)(b) and (c) and Clause 3(4)(e) to replace "法庭" with "法院" in the Chinese text so as to tally with the wording used in the Guardianship of Minors Ordinance (Cap. 13) ;
- to amend Clauses 3(2)(d) and (4)(f) to add a person residing with a HCR who accompanies the HCR at the relevant time as an eligible substitute decision maker of the HCR; and
- to add paragraph (e) to Clause 3(3) and paragraphs (g) and (h) to Clause 3(5) to amend the definition of **relevant time** stipulating that a substitute decision maker of a HCR may request to make or remove a sharing restriction, and to make consequential textual amendments to Clauses 3(3)(d) and 3(5)(f).

Clauses 10 and 22
- to amend Clause 10(1) and add Sub-clause (1A) to Clause 10, and amend Clause 22(1) and add Sub-clause (1A) to Clause 22 to allow the Commissioner for the Electronic Health Record ("the Commissioner") to suspend the registration of an HCR/HCP for an initial period of not more than 28 days, and the suspension may be extended for a further period of not more than 28 days if the Commissioner considers it appropriate.

Clauses 11 and 23
- to amend Clause 11(2) and add Sub-clauses (2A) and (2B) to Clause 11, and amend Clause 23(2) and add Sub-clauses (2A) and (2B) to Clause 23 to stipulate that an HCR/HCP would be given an opportunity to make representation before the Commissioner makes a decision on cancellation of the registration of the HCR/HCP, and to make other consequential textual and technical amendments.

Clauses 17 and 19
- to amend Clauses 17(1) and (2) and Clause 19(2) to stipulate that a HCP's registered service location must be within Hong Kong ; and
- to delete Clause 17(5)(g) to narrow down the scope of healthcare service location, and to make consequential textual amendments to Clauses 17(5)(e) and 17(5)(f).

Clause 21
- to amend the Chinese text of Clause 21(1) to align with the English text.

Heading of Division 4 of Part 3 and Clause 35
- to amend the heading of Division 4 of Part 3 and delete Clause 35 for better clarity and conciseness, as the requirements to be observed by HCPs may be covered by the Code of Practice to be issued by the Commissioner under Clause 51.

Clauses 37 and 38
- to delete paragraph (a) of Clauses 37(2) and Clause 38 to allow a person authorized in writing by a HCR to make a data access request / data correction request relating to the HCR's data in the System. This is consistent with the handling of health data under the Personal Data (Privacy) Ordinance (Cap. 486) ("Privacy Ordinance").

Clause 43
- to make textual amendments in the Chinese text of Clause 43(1)(a).

Clause 46
- to amend "healthcare services" as "health care services" in Clause 46(8)(b) and (c) and to stipulate in Clause 46(9) that the term has the same meaning as that in Sections 35B and 35I of the Privacy Ordinance, and to make consequential textual amendments to the definition of **direct marketing** in Clause 46(9).

Clause 50
- to amend Clause 50(1) to subject the prescribed HCP (including the Hospital Authority ("HA") and the Department of Health ("DH")), in addition to registered HCPs, to the same requirements of the Commissioner to provide records or documents; and
- to amend Clause 50(1)(b) to expand the scope of records or documents that the Commissioner may require an HCP to provide.

Clause 53
- to add Sub-clause (2A) to elaborate on the requirements for the "not more than 10 other non-ex officio members" of the Electronic Health Record Research Board appointed by the Secretary for Food and Health under Clause 53(2)(c); and
- to amend Clause 53(3) and add Sub-clauses (3A), (4A) and (4B) to Clause 53 to stipulate the term of appointment, re-appointment, removal and notice of appointment of the aforementioned members.

Clause 57
- to amend Clause 57(1) to clarify that the liability the Clause refers to is civil liability only; and
- to delete Clause 57(2) to facilitate the Commissioner to exercise his/her oversight role more effectively and observe the relevant requirements of the Privacy Ordinance.

Clause 58
- to amend Clause 58(3)(b) to narrow down the scope of persons conferred upon protection from being civilly liable.

Mover	Voting	Remarks	Amendments
SFH	SFH's amendments	Irrespective of whether SFH's amendments are passed or not, Dr Hon LEUNG Ka-lau **may move** his amendments	**LC Paper No. CB(3) 806/14-15**

Third debate	: Clauses with amendments – Clauses 2, 7, 12 and 16 proposed by Dr Hon LEUNG Ka-lau

Joint debate on the original clauses and the amendments thereto.

Clause 2(1)
- to delete the definition of **healthcare referral**.

Clause 7
- to delete Clause 7(3) and substitute with a new clause to achieve the following effects:
    (i) "joining consent" means an HCR's consent for the Commissioner to obtain from a prescribed HCP any sharable data of the HCR, and for a prescribed HCP to provide any sharable data of the HCR to the System;
    (ii) remove the arrangement that the Commissioner may provide the sharable data of the HCR to a prescribed HCP; and
    (iii) remove the arrangement that if a prescribed HCP has made a healthcare referral to another prescribed HCP, the Commissioner may obtain from, and provide to, that other prescribed HCP any sharable data of the HCR concerned; and
- to add new Clause 7(6) and (7) to stipulate that a registered HCR may request to impose or remove a restriction that the Commissioner must not obtain from a prescribed HCP any sharable data of the HCR.

Clause 12
- to delete Clause 12(6) and substitute with a new clause to achieve the following effects :
    (i) "sharing consent" means a registered HCR's consent for a prescribed HCP to obtain from the System any sharable data of the HCR;
    (ii) remove the arrangement that a prescribed HCP may provide the sharable data of an HCR to the System and to a referral HCP; and
    (iii) remove the arrangement that a referral HCP may provide to, or obtain from, the System the sharable data of the HCR concerned; and
- to delete Clause 12(9) to remove the definition of **referral healthcare provider**.

Clause 16
- to delete Clause 16 to remove the arrangement for **sharing consent taken to be given** i.e. an HCR is not taken to have given a sharing consent to DH and HA when the HCR gives a joining consent.

Mover	Voting	Remarks	Amendments
Dr Hon LEUNG Ka-lau	Dr Hon LEUNG Ka-lau's amendments	Irrespective of whether Dr Hon LEUNG Ka-lau's amendments are passed or not, SFH **may move** his new clauses.	**LC Paper No. CB(3) 845/14-15**

Fourth Debate	:	New clauses proposed by the SFH	– Heading of new Division 3A and new Clauses 16A and 16B, and Clause 35A

Joint debate on the new clauses.

Heading of Division 3A and Clauses 16A and 16B
- to add new Clauses 16A and 16B after Clause 16 to allow a registered HCR to request to impose or remove a restriction on the scope of sharing of the health data of the registered HCR so as to increase their choices over data sharing.

Clause 35A
- the new Clause provides that the data access given by an HCR to a healthcare professional is restricted to the health data relevant to the healthcare performed, so as to reflect the "need-to-know" principle.

Mover	Voting	Remarks	Amendments
SFH	SFH's new clauses	If Dr Hon LEUNG Ka-lau's amendments are **passed**, SFH will **revise** new Clause 16A by removing the reference to Clause 16, and make consequential textual amendments.	**LC Paper No. CB(3) 854/14-15**
		If Dr Hon LEUNG Ka-lau's amendments are **negatived**, SFH **may move** the original version of the new clauses.	**LC Paper No. CB(3) 806/14-15**

Fifth debate	:	Schedule

Voting	:	To vote on the Schedule standing part of the Bill

SFH's amendments
(Issued under LC Paper No. CB(3) 806/14-15 on 30 June 2015)

Dr Hon LEUNG Ka-lau's amendments
(Issued under LC Paper No. CB(3) 845/14-15 on 6 July 2015)

SFH's revised amendments
(Issued under LC Paper No. CB(3) 854/14-15 on 7 July 2015)

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