

## **Bills Committee on Private Healthcare Facilities Bill**

### **Government's response to the follow-up issues raised at the Bills Committee meeting on 11 July 2017**

#### **Purpose**

This paper sets out the Government's response to the follow-up issues raised at the meeting of the Bills Committee on Private Healthcare Facilities Bill (the Bill) held on 11 July 2017, as recorded in the **Annex**.

#### **Medical Service under the Bill**

2. Medical service, in relation to a patient, is defined under clause 2 of the Bill as a medical diagnosis, treatment (other than first aid treatment) or care for the patient given by a registered medical practitioner or a registered dentist. Such medical treatment or care may be given directly by, or on the direction or prescription of, the medical practitioner or dentist for the patient. For example, if a medical practitioner gives a direction to a nurse over the phone regarding a treatment on a patient, the treatment delivered by the nurse (without the presence of the medical practitioner) could be considered as medical service under the Bill.

#### **Nursing Requirements**

3. Generally speaking, staffing requirements (e.g. staffing ratio and qualification) on healthcare personnel (including nurses) vary by type of facility, specialty and clinical role. Under the current regulatory regime, staffing requirements for certain specialties in a private hospital are prescribed in the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes. Given the evolving medical technology and diversity in services which could be provided in a private healthcare facility (PHF), it is desirable for the regulatory authority to adopt a similar approach under the new regulatory regime to prescribe staffing requirements for PHFs, where appropriate, in the form of code(s) of practice. Clause 102 empowers the Director of Health (the Director) to

issue a code of practice about, among others, the management and staffing arrangement of PHFs. After the Bill is enacted and comes into operation, the Director may issue code(s) of practice setting out nursing requirements as appropriate for PHFs.

4. Regulatory standards for private hospitals, which will be the most stringent among all types of PHFs, will be formulated based on the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes currently in force. Besides, to draw up standards for day procedure centres and to give advice on the standards for clinics, a Project Steering Committee on Standards for Ambulatory Facilities was set up by the Department of Health (DH) and the Hong Kong Academy of Medicine (HKAM) in mid-2015. The Project Steering Committee and its Task Forces comprise, among others, experts nominated by HKAM and other medical practitioners. Before the introduction of the statutory licensing system under the new regime, these standards (including certain staffing requirements) for day procedure centres and clinics will serve as professional guidance for operators, as well as for the medical and dental professions. So far, a set of Core Standards, which applies to all day procedure centres, was promulgated by HKAM and DH in late 2016. Moreover, a set of Procedure-specific Standards for day procedure centres providing surgery, anaesthesia and sedation was promulgated by HKAM and DH in May 2017, whereas those for other specific classes of procedures (e.g. endoscopy and haemodialysis) are under preparation. For clinics, we are consulting stakeholders on the Standards for Medical Clinics, which have been drafted with reference to the existing Code of Practice for Clinics Registered under the Medical Clinics Ordinance (Cap. 343) and relevant standards in overseas jurisdictions. The promulgated Standards are available on the websites of the Government (<http://www.hpdo.gov.hk/en/fhsdrelevantpapers.html>) and HKAM. They will be adopted as code(s) of practice when the new regulatory regime is in place.

### **The Committee on Complaints against Private Healthcare Facilities**

5. The Bill provides for a two-tier complaints management system to handle complaints against licensed PHFs on matters related to their compliance with the Private Healthcare Facilities Ordinance or the code(s)

of practice issued pursuant to the Ordinance. While PHFs should manage complaints at the first-tier, an independent Committee on Complaints against Private Healthcare Facilities (Complaints Committee) will be established at the second-tier, as a centralized mechanism to look into the complaints unresolved.

6. When a facility complaint is received, it must be processed by a preliminary processing panel set up by the Complaints Committee. On receiving a report from the preliminary processing panel under clause 83(4), the Complaints Committee will appoint a case panel to consider the facility complaint. However, if the Complaints Committee considers that the complaint fits into one or more of the grounds set out in clause 84(2) of the Bill, the Complaints Committee may refuse to appoint a case panel to consider the complaint. It may then close the complaint case and inform the complainant in writing accordingly.

7. For a complaint involving misconduct of a PHF's healthcare professional(s), the Complaints Committee may consider that the subject matter of the complaint is not related to compliance with the Private Healthcare Facilities Ordinance or its code(s) of practice, which is one of the grounds set out in clause 84(2) of the Bill. If considered appropriate, the Complaints Committee may refer the complaint to regulatory authorities for any follow-up action.

### **Class of Specialized Service – Haemodialysis**

8. The Working Group on Defining High-risk Medical Procedures/Practices Performed in Ambulatory Setting, set up under the Steering Committee on Review of Regulation of Private Healthcare Facilities, recommended that haemodialysis be classified as a high-risk medical procedure, which should be performed only in regulated ambulatory facilities or hospitals by qualified health professionals. It was also recommended that haemodialysis in the form of continuous venous-venous haemofiltration/haemodiafiltration should be performed in hospitals only. The recommendation was endorsed by the Steering Committee, and formed part of the regulatory proposals when the Government consulted the public on the proposal to revamp the existing regulatory regime for PHFs. The Government's regulatory proposals,

including the recommendation set out above, was widely supported.

9. Under the Bill, scheduled medical procedures can be performed in day procedure centres but not in clinics. Haemodialysis is now listed in Schedule 2 to the Bill, and is a scheduled medical procedure when carried out in an ambulatory setting. In addition, clause 103 empowers the Director to specify in a code of practice medical procedures that may only be carried out in a hospital. To this end, we have already specified continuous venous-venous haemofiltration/haemodiafiltration, amongst others, as procedures that should only be performed in hospitals in the Core Standards mentioned in paragraph 4 above. Such procedures will be set out in the code(s) of practice when the Bill is enacted and comes into operation.

**Food and Health Bureau**  
**Department of Health**  
**September 2017**

**Follow-up issues raised at  
the Bills Committee on Private Healthcare Facilities Bill  
meeting on 11 July 2017**

The follow-up issues raised at the meeting of the Bills Committee on Private Healthcare Facilities Bill (the Bill) held on 11 July 2017 are as follows -

- (a) to clarify what would constitute the provision of a medical service in a private healthcare facility (PHF), in particular whether the non-presence of a registered medical practitioner or a registered dentist (as the case might be) in the premises concerned would render the relevant service not being regarded as a medical service. According to clause 2, “medical service”, in relation to a patient, meant a medical diagnosis, treatment (other than first aid treatment) or care for the patient given by a registered medical practitioner or a registered dentist;
- (b) to advise whether, and if so, what nursing requirements would be imposed on the PHFs regulated under the Bill;
- (c) to advise how the Committee on Complaints against Private Healthcare Facilities to be established under clause 71 would handle a facility complaint against a PHF which involved misconduct of its healthcare professional(s); and
- (d) in respect of Schedule 2 which set out different classes of specialized services and the corresponding medical procedures that could be carried out in a day procedure centre -
  - (i) to address a member’s concern that for item 5, the description in column 2 of the Schedule as presently drafted was far from clear in defining what would constitute a medical procedure corresponding to the class of haemodialysis services listed in column 1 of the Schedule; and
  - (ii) to advise whether the Director of Health would, in a code of practice to be issued under clause 102, specify that certain medical procedures corresponding to the class of haemodialysis services could only be carried out in a hospital, and if so, which medical procedures would be so covered.