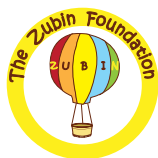
25th September 2017

Clerk to Bills Committee on Private Healthcare Facilities Bill
Legislative Council Secretariat
Legislative Complex
1 Legislative Council Road
Central, Hong Kong

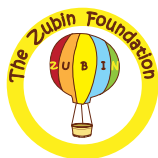
**The Zubin Foundation's (TZF) Submission on the Private Healthcare Facilities Bill
(September 2017)**

The following proposals are for **private hospitals** only based on the Bill introduced:

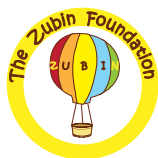
No	Clause Number	The Zubin Foundation proposals:
1	55(2)(b) Chief Medical Executives – Responsibilities	<p>Add(v): <i>Keep and maintain Employment & Agency Contracts with all medical practitioners of the hospital</i></p> <p>Rationale: Private hospitals have in the past claimed that there is no legal relationship between their hospital and a visiting doctor (and in some cases, even a resident doctor). This has been major problem when patients have experienced a mishap at the hospital as a result of the doctor.</p>
2	Division 3 Medical Advisory Committee (MAC)	<p>Add: <i>Names of MAC must be publicly available on the healthcare facilities website</i></p> <p>Rationale: The public and particularly patients should have access to this information. In essence this is the group of people who are responsible for the medical practices of the hospital.</p>
3	58 Medical Advisory Committee -Function	<p>Add: <i>All matters related to medical legal cases or medical complaints.</i></p> <p>Rationale: The MAC is unable to improve medical practices in the hospital if they are not fully briefed on the medical incidents including medical related complaints and medical legal claims.</p>



No	Clause Number	The Zubin Foundation proposals:
4	<p>60b (b) provide in writing to the Director a list of the members of the Medical Advisory Committee</p>	<p>Add to 60(b) <i>Please specify <u>how often</u> should licensee should provide information</i></p>
5	<p>64(3) (a), (b) and (c)</p> <p>This clause provides for what the licensee must do upon receipt of a complaint.</p> <p>(a) Investigation conducted and findings made (b) If case requires it, improvement is made (c) Complainant informed of findings and improvement measure, and if the case requires it follow up action.</p>	<p>Add: <i>For <u>each</u> of the following (a), (b) and (c), include:</i></p> <ul style="list-style-type: none"> - <i>A clearly defined time period, for example, every 6 months from the date of complaint, complainant must be informed of status of complaint by licensee</i> - <i>Licensee must have addressed complaint, with findings and measurements in place for improvement, within a maximum time period of 24 months from date of complaint.</i> - <i>Complaints that have not been fully addressed within 24 months of the date complaint was received must inform the Director of Health with the nature of complaint and reasons for the delay</i> <p>Rationale: The licensee must provide timely updates to the patient so that the patient is informed of the status of his/her complaint. In addition, the onus is on the hospital is to ensure that complaints are dealt with in a timely manner. In addition, the hospital must ensure that complaints do not accumulate for long periods of time but instead are addressed and actioned so that improvements that need to be made can benefit other patients as soon as possible. Giving the hospital a timeline is more likely to ensure that there is accountability on the part of the hospital and that patients' needs are being addressed.</p>
6	<p>64(4)</p> <p>The Chief Medical executive (CME) must <u>on request</u>, provide to the Director....</p>	<p>Change: <i>"on request" to "every 6 months"</i></p> <p>Rationale:</p> <ul style="list-style-type: none"> - The clause as written assumes that the Director would know about a complaint in order for him/her to make a request



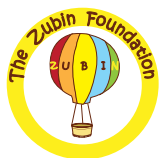
No	Clause Number	The Zubin Foundation proposals:
		<ul style="list-style-type: none"> - This is clearly not likely to be the case - The onus should be on the hospital to update the Director with a summary of complaints, findings and actions taken on a 6-month basis.
7	<p>69 Registered medical practitioner resident in hospital – The licensee of a hospital must ensure that there is at least 1 registered medical practitioner resident in the hospital at all times.</p>	<p>Add:</p> <ol style="list-style-type: none"> 1. <i>On the facility website, clearly state the date and time, from and to, the medical practitioner is on duty as resident of the hospital.</i> 2. <i>The medical practitioner’s name, and specialty must be clearly stated (e.g. General surgery, Paediatrics) on the hospital website.</i> 3. <i>The ratio number of patient beds to medical practitioners’ resident at the hospital at all times must be clearly defined.</i> 4. <i>“Resident at the hospital at all times” needs to be defined.</i> <p>Rationale (number corresponds to the number above):</p> <ol style="list-style-type: none"> 1. Patients should know what is speciality of doctor is on site if they plan to visit a hospital. Transparency is key for patients to make informed decisions. 2. Patients should know the period from and to the resident doctor is on duty. This will provide information that will help them make decisions. 3. Hospitals with more beds should have more resident doctors on site. For example, hospital with 200 beds should have less doctors onsite than a hospital with 800 beds. This ratio must be clearly determined and laid out in law. 4. “Resident at the hospital at all times”, “must be defined. Currently, in some hospitals, resident doctors on duty may also have visiting rights elsewhere and therefore may be called to another hospital where they have a patient admitted. This is clearly not the purpose of s69 and the purpose is to ensure that a hospital has the doctor onsite.
8	<p>73(g) Functions of Committee on</p>	<p>Change: <i>“Regular” to quarterly</i></p>



No	Clause Number	The Zubin Foundation proposals:
	Complaints against Private Healthcare Facilities – to publish on a <u>regular</u> basis summary reports	Rationale: If the regularity is clear stated, then there is more likely to be accountability on the part of the hospital.
9	82(i) Making facility complaint – the persons may make a complaint to the Complaints Committee against a private healthcare facility	Add: <i>(e) the deceased patient’s family member</i> Rationale: A deceased family member may wish to make a complaint.
10	84(2b) Consideration of facility complaint by case panel - may refuse to appoint a case panel if the event to which the complaint relates occurred more than 2 years before the day on which the complaint is made	Change: <i>Extending the time period to 3 years.</i> Rationale: In the case of death of a loved one and particularly tragic and sudden death, it can take a while for the family to be able to address the cause of death, because of grief and depression. Consider extending them time from 2 to 3 years.
11	86(2) Conclusion of Complaints and recommendations of case panel –if a complaint is substantiated	Add: <i>(v) to provide details of the complaint, including the facility name on the FHB website.</i> <i>(vi) to require the private healthcare facility to provide details of the complaint measure taken on its website</i> Rationale: Transparency is critical for patients to make informed decisions. If a complaint is substantiated then the public has a right to information about the complaint and the measures taken to rectify the situation. In addition, it is more likely that the hospital will take appropriate measures to correct mistakes if it is accountable on its website.
12	92 Prohibited use of titles or descriptions	Address: <i>Descriptions like ‘24-hour care’ or ‘A&E’ or similar times must be addressed in the law</i> Rationale: Currently there are private hospitals that misrepresent to the



No	Clause Number	The Zubin Foundation proposals:
		public on their website that they can provide “24-hour care” for “any eventuality” or use similar misleading language. The new law must address misrepresentations in language to the public.
13	122 (2) Regulations – Secretary may by regulation	<p>Add:</p> <ul style="list-style-type: none"> • <i>Provide for need for contractual documents to be kept between Private Healthcare Facilities and medical practitioners</i> • <i>Provide for hospital outcome data to be kept or submitted to the Director</i> • <i>Provide for records of adverse and sentinel events to be kept or submitted to the Director</i> <p>Rationale:</p> <ol style="list-style-type: none"> 1. Regulation is for the contractual relationship in writing between the facility medical practitioners is critical. If a patient would like to bring a claim against a practicing doctor in a private hospital, there have been cases that the private hospital has alleged that there is no relationship between the doctor and its hospital. Patients (rightly) assume that there is a legal relationship between a doctor and a hospital and the relationship should be clearly defined. 2. Regulation is required for quality of care data in a hospital. Quality of Care data is standard information (the world over) a hospital should produce. Quality of care allows the Director and the public to understand what the quality of care is in the hospital. Currently, private hospitals are not required by law to provide such data to the Director. 3. Regulation for Records of Adverse and Sentinel events is required. Again, this allows the Director to clearly have the backing of the law so that all such events are provided to the Director. When the Director is aware of problems that have arisen in a hospital, the Director is then able to take action.
14	N/A	Recommend that the Board of Private Healthcare Facilities have a Nomination Committee so that there is transparency



No	Clause Number	The Zubin Foundation proposals:
		and an open recruitment process to bring on board candidates. Reference to NHS foundation trust non-executive director nomination committee ¹

For further information and discussion, please contact:

Shalini Mahtani, MBE

Co-Founder and Chair

Email: mummy@zubinfoundation.org

¹ Specimen terms of reference - NHS foundation trust non-executive directors nomination committee
<https://www.icsa.org.uk/knowledge/resources/specimen-terms-of-reference-nhs-non-exec-directors-nomination-committee>