

Bills Committee on Private Healthcare Facilities Bill

Government's response to the follow-up issues raised at the Bills Committee meeting on 12 December 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 12 December 2017.

Exclusion for the Two Universities

2. The Bill aims at regulating private healthcare facilities (PHFs) providing medical services to the public. The legislative intent is to revamp the current framework to broaden the regulatory scope amid the evolving landscape of healthcare services, such as the emerging market of ambulatory day procedure centres and clinics. On the other hand, whilst The University of Hong Kong (HKU) and The Chinese University of Hong Kong (CUHK) have set up certain PHFs, it is noted that the primary purpose of such facilities is for teaching and research rather than service provision.

3. The two universities have already put in place a robust governance structure that is fit-for-purpose with due regard to the nature of these facilities and their unique cohort of stakeholders¹. In formulating the governance structure, reference has been made to that of the Hospital Authority (HA) and The Prince Philip Dental Hospital (PPDH) as appropriate. A comparison between the governance structures put in place by HA and the two universities respectively, as well as that introduced under the Bill is at **Annex A**.

4. Duplicating relevant efforts on governance, clinical management and complaints handling, etc. simply to ensure that the facilities operated by

¹ Such stakeholders include but are not limited to the universities management, patients, teaching and research staff, students, the Government and the academia.

HKU and CUHK also comply with another set of regulatory requirements under the Bill, might not be an optimal use of resources by the two universities, which are independent and autonomous statutory bodies, each with its own ordinance and governing council and enjoys academic freedom and institutional autonomy. Given the above, we propose that facilities fulfilling the following criteria should **not** be regulated under the Bill –

- (a) being managed or controlled by HKU or CUHK;
- (b) being a day procedure centre, clinic or health services establishment; and
- (c) being primarily used for teaching or research relating to medicine or dentistry.

Similar exclusion is in place in the Medical Clinics Ordinance (Cap. 343), which will be replaced by the Bill under the new regulatory regime for PHFs. Under that Ordinance, relevant premises maintained or controlled by the two universities are excluded from the definition of “clinic”².

5. We consider that the 14 existing facilities set out in the Annex to LC Paper No. CB(2)196/17-18(02) meet the criteria of being primarily used for teaching or research relating to medicine or dentistry, as these facilities share the following common traits -

- (a) in respect of the services provided by registered medical practitioners or registered dentists, the great majority of patients, if not all of them, are involved in teaching or research; and
- (b) except the staff and students of the two universities, no other registered medical practitioners and registered dentists are allowed to practise in these facilities. In addition, in case top-notch non-local experts practise in these facilities for the purpose of teaching or research, the universities will ensure that relevant laws and regulations are complied with.

Further information on these 14 existing facilities can be found at **Annex B**.

² Under Cap. 343, “clinic” means any premises used or intended to be used for the medical diagnosis or treatment of persons suffering from, or believed to be suffering from, any disease, injury or disability of mind or body, but does not include, among others, premises used in the manner aforesaid which are maintained or controlled by HKU or CUHK.

Views and Questions from The Hong Kong Federation of Insurers

6. Subsequent to the Bills Committee meeting on 12 December 2017, we had a meeting with representatives of The Hong Kong Federation of Insurers (HKFI) to brief them on the key provisions under the Bill, to clarify questions raised by them as well as to discuss matters related to the Bill. A summary of our response to the major views and questions raised by HKFI on the Bill as set out in its submission (LC Paper No. CB(2)487/17-18(01)) is given at **Annex C**.

**Food and Health Bureau
Department of Health
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Comparison between the Governance Structures Put in Place by the Hospital Authority, the Two Universities and that Introduced under the Bill

	Healthcare facilities managed or controlled by HA	Healthcare facilities managed or controlled by the two universities	PHFs to be licensed under the Bill
Corporate governance	HA has set up a functional structure under its Head Office and a management structure at cluster level. The institutions concerned have to adhere strictly to the requirements imposed under these structures.	The two universities have put in place comprehensive governance structures at the facility, Faculty and even university levels. The facilities concerned have to fulfill all the requirements imposed under the governance structures.	The licensee of a PHF is wholly responsible for the operation of the facility. The licensee must also appoint a chief medical executive to take charge of the day-to-day administration of the facility.
Standard of facilities	There is a designated department under HA Head Office to coordinate the formulation of requirements on medical equipment and standard of facilities. A similar structure is also in place at the clusters to promote	The two universities have formulated requirements on standards of facilities with reference to the practice of HA and PPDH.	The licensee of a PHF must ensure the facility's compliance with the requirements on premises, equipment, staffing and service delivery, etc. as stipulated under the Bill and in

	Healthcare facilities managed or controlled by HA	Healthcare facilities managed or controlled by the two universities	PHFs to be licensed under the Bill
	the compliance with such requirements.		the code of practice.
Clinical quality	The Quality and Safety Division, set up under HA Head Office, leads the establishment of clinical quality assurance systems, and coordinates the implementation of such systems in HA. Structures are also in place at the clusters to promote the adoption of safety and quality assurance systems in institutions.	The two universities have formulated requirements on clinical quality with reference to the practice of HA and PPDH.	The licensee of a hospital or a day procedure centre must set up and implement policies and procedures on clinical services quality, in accordance with the relevant code of practice as issued by the Director of Health.
Price transparency	Medical services provided by HA hospitals/clinics are charged as per the fee schedule published in the Gazette. People who have financial difficulties in paying medical expenses at the public sector may apply for medical fee waiver.	The healthcare facilities will provide and explain clearly to patients details of the charges if charges are involved in the services provided.	Insofar as day procedure centres and clinics are concerned, they must make available to the public information about the prices of chargeable items and services provided in the facility as specified by the Director of

	Healthcare facilities managed or controlled by HA	Healthcare facilities managed or controlled by the two universities	PHFs to be licensed under the Bill
			Health, in accordance with clause 61 of the Bill.
Complaints handling	HA has established a two-level complaints system to handle public complaints. At the first-tier, all complaints are handled by the respective hospitals/clinics. Unresolved complaints will be reviewed by the Public Complaints Committee established under the HA Board.	An established complaints management system, comprising three tiers, is in place for the relevant facilities operated by the two universities. The first-tier is at the service delivery level where the facilities should manage complaints at source. At the second-tier, a mechanism is in place at the Faculty level, so as to look into complaints unresolved at service delivery level by the facilities. If a complaint remains unsettled, it will be escalated to the university level for further review.	The Bill provides for a two-tier complaints management system. While PHFs will manage complaints at the first-tier, the Committee on Complaints against Private Healthcare Facilities will be established at the second-tier to centrally look into complaints unresolved at service delivery level.

	Healthcare facilities managed or controlled by HA	Healthcare facilities managed or controlled by the two universities	PHFs to be licensed under the Bill
Incidents handling	HA implements a Sentinel and Serious Untoward Event Policy to standardize the practice and procedures for managing serious incidents in all public hospital clusters, thereby strengthening the reporting, management and monitoring of serious incidents in public hospitals.	Reporting and handling systems on medical incidents are established with reference to those of HA and PPDH accordingly. Under the systems, investigations will be carried out to identify possible causes of the incidents, and to encourage learning and improvement.	Private hospitals should comply with the requirements on the management of serious incidents (including sentinel events and serious untoward events) as stipulated in the relevant code of practice.

Annex B

Further Information on the Existing Facilities Meeting the Proposed Criteria for Exclusion

	Name of facility	Address	Number of complaints received in 2016	In respect of the services provided by registered medical practitioners or registered dentists, percentage of patients being involved in teaching or research in 2016
1.	HKU PET/CT Unit (HKU)	Ground Floor, New Wing D, Main Block, Queen Mary Hospital	1 (not substantiated)	The great majority of patients ¹
2.	MRI & Ultrasound Units (HKU)	LG3, The Hong Kong Jockey Club Building for Interdisciplinary Research, 5 Sassoon Road	1 (not substantiated)	
3.	Lady Helen Woo Women's Diagnostic and Treatment Centre (HKU)	2/F, East Wing, Tsan Yuk Hospital	1 (substantiated)	
4.	Centre of Assisted Reproduction and Embryology (HKU)	Room 528, 5 th Floor, Block K, Queen Mary Hospital	0	
5.	HKU Phase 1 Clinical Trials Centre (HKU)	2/F, Block K, Queen Mary Hospital	0	
6.	Institute for Advanced Dentistry – Multi-Specialty Clinic (HKU)	Block A 6 th Floor, The Prince Philip Dental Hospital	N/A, as the facility commenced services in March 2017.	

¹ In respect of these facilities, patients are requested to complete a consent for the purpose of teaching or research. The great majority of patients, if not all of them, are involved in teaching or research. Detailed statistics in this regard are not available.

	Name of facility	Address	Number of complaints received in 2016	In respect of the services provided by registered medical practitioners or registered dentists, percentage of patients being involved in teaching or research in 2016
7.	Centre of Research and Promotion of Women's Health (CUHK)	Room 421-425, 4/F, Lek Yuen Health Centre, 9 Lek Yuen Street, Shatin	0	The great majority of patients ²
8.	CUHK Ophthalmic Research Centre (CUHK)	Room 350-353, 382-383, 385-389, 3/F, Hong Kong Eye Hospital	0	
9.	CUHK Jockey Club Centre for Osteoporosis Care and Control (CUHK)	Room 325, The Jockey Club School of Public Health and Primary Care, Prince of Wales Hospital	0	
10.	Hong Kong Institute of Integrative Medicine (CUHK)	4L, 4/F, Day Treatment Block, Prince of Wales Hospital	0	
11.	Hong Kong Mood Disorders Centre (CUHK)	Room 1511-1512, Phase 1, Grand Central Plaza, 138 Shatin Rural Committee Road, N.T.	0	
12.	Phase 1 Clinical Trial Centre (CUHK)	11EF, Special Block (Wing E,F), Prince of Wales Hospital	0	
13.	S H Ho Centre for Digestive Health (CUHK)	4M, 4/F, Day Treatment Block, Prince of Wales Hospital	0	

² In respect of these facilities, patients are requested to complete a consent for the purpose of teaching or research. The great majority of patients, if not all of them, are involved in teaching or research. Detailed statistics in this regard are not available.

	Name of facility	Address	Number of complaints received in 2016	In respect of the services provided by registered medical practitioners or registered dentists, percentage of patients being involved in teaching or research in 2016
14.	The Chen Wai Wai Vivien Foundation Therapeutic Physical Mental Exercise Centre (CUHK)	Room L, 19/F, Phase 1, Kings Wing Plaza, On Kwan Street, Shek Mun, Shatin, N.T.	0	

Annex C

The Government's Response to the Major Views and Questions Raised by The Hong Kong Federation of Insurers

	The Hong Kong Federation of Insurers' major views and questions	The Government's response
1.	What is the rationale for exempting small practice clinics under the Bill? Are stand-in doctors allowed in a small practice clinic?	<p>We propose that clinics involving only solo or small group practice (i.e. small practice clinics) should be exempted under the new regime, as these clinics are managed and operated by the same registered medical practitioners (and/or registered dentists), who would have direct and full control of all operations of these clinics.</p> <p>The operators of a small practice clinic should be the only registered medical practitioners and/or registered dentists serving the clinic. Nonetheless, the Bill also provides for stand-in arrangement for the operators in their absence subject to limits on duration, as stipulated in clauses 41(4) to 41(6) of the Bill.</p>
2.	The mandatory provision of recognized service packages is not mentioned in the Bill.	During the public consultation conducted in December 2014, we proposed that recognized service packages should be provided voluntarily by PHFs. After considering the views received, we consider that PHFs should be encouraged to offer recognized service packages under the new regime.
3.	Will the Government control, monitor or provide reference on the level of charges imposed by PHFs?	The Government will not intervene in the level of charges imposed by PHFs under the free market principle. We believe that by allowing PHFs to set the prices of services provided with reference to their service features, competition on service quality and efficiency will be encouraged. On the other hand, by enhancing the price transparency of PHFs, patients and consumers will be able to make informed decisions in choosing the healthcare services they need.

	The Hong Kong Federation of Insurers' major views and questions	The Government's response
4.	Will the Committee on Complaints against Private Healthcare Facilities (Complaints Committee) handle complaints on the level of charges imposed by PHFs?	The complaints to be handled by the Complaints Committee are related to compliance or otherwise with the Private Healthcare Facilities Ordinance or its code of practice. Given that the Bill does not serve to regulate the level of charges imposed by PHFs, the Complaints Committee will not handle complaints in this regard.
5.	What are the procedures that should be performed in hospitals only? Will a mechanism be in place to update the list of such procedures?	<p>The Hong Kong Academy of Medicine (HKAM) and the Department of Health (DH) promulgated in late 2016 a set of Core Standards¹, which applies to all day procedure centres. The Core Standards have set out a list of procedures, such as organ transplant (except corneal transplant), suggested to be performed in hospitals only. The Core Standards will be adapted to become the code of practice for day procedure centres under the new regulatory regime when the Bill is enacted and comes into force.</p> <p>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 DH and HKAM in mid-2015. The Project Steering Committee will also provide recommendations to the Government on the procedures that should be included in Schedule 2 to the Bill, as well as the procedures that should only be performed in hospitals. Moreover, under clause 99 of the Bill, the Director of Health may appoint one or more advisory committees to advise on any matter relating to the regulation of PHFs. When the new regime is in place, the Director of Health may appoint an advisory committee to review the list of such</p>

¹ Link to the Core Standards: http://www.dh.gov.hk/english/main/main_orphf/files/CS_DPC.pdf .

	<p style="text-align: center;">The Hong Kong Federation of Insurers' major views and questions</p>	<p style="text-align: center;">The Government's response</p>
		<p>procedures from time to time.</p>