

Bills Committee on Private Healthcare Facilities Bill

Government's response to the follow-up issues raised at the Bills Committee meeting on 23 April 2018

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 23 April 2018.

Clause 70 of the Bill

2. Clause 70 of the Bill provides that except with the prior approval in writing of the Director of Health, a room, unit or section of a permitted facility must not bear certain names or descriptions. There are two subclauses under clause 70: subclause (1) specifies the scope i.e. the types of private healthcare facilities (PHFs) to which the clause applies, and subclause (2) sets out the prohibition. The drafting style of clause 70 (i.e. with an application provision preceding the main provisions) is consistent with that of the other provisions (e.g. clauses 66, 67 and 68) of Division 6 of Part 5 as well as the whole Bill. The purpose of adopting this style is to enable readers of the Bill to instantly identify "to whom the provision applies". As regards a clause heading, since it has no legislative effect, it is usually set out in brief terms only. Nonetheless, we will consider refining the heading of clause 70, via a Committee Stage Amendment, to make it more specific that the prohibition applies to names or descriptions pertaining to operating facilities only.

The Committee on Complaints against Private Healthcare Facilities

3. An independent Committee on Complaints against Private Healthcare Facilities (Complaints Committee) will be established to look into complaints unresolved by licensed PHFs under the new regulatory regime. It is stipulated in clause 71(4) of the Bill that at least half of the members of the Complaints Committee, including its chairperson and deputy

chairperson, must be persons who are neither registered medical practitioners nor registered dentists, i.e. lay persons. In considering the composition (including the chairmanship) of the Complaints Committee, we strive to ensure a balanced participation by different stakeholders to increase transparency, neutrality and credibility of the Committee. We note some Members' views on having the chairperson of the Complaints Committee being neither a registered medical practitioner nor a registered dentist. Nonetheless, we do not consider an express provision to that effect is necessary as the current clause 71(4) already provides sufficient flexibility for the Secretary for Food and Health (the Secretary) to appoint a lay person as the chairperson as she sees fit.

4. Under clause 74(1) of the Bill, at a meeting of the Complaints Committee, 13 members form a quorum. This quorum is proposed taking into account size of the Complaints Committee (i.e. a chairperson, a deputy chairperson, as well as 24 to 48 other members), and the practicability for the Complaints Committee to arrange meetings in a timely manner. In any case, the secretary of the Complaints Committee, who is a public officer, will, as in the case of any other statutory committees / boards, strive to ensure balanced participation of members at meetings of the Complaints Committee by notifying members of schedule of meetings in advance, and accommodating members' schedules as far as practicable.

5. Under clause 72(1) of the Bill, the Secretary is to appoint a secretary and a legal adviser for the Complaints Committee for a period and on the terms specified in the letter of appointment. For the avoidance of doubt, we will consider refining both English and Chinese texts of the Bill, with reference to other enactments, so as to clarify our intention that the Secretary may appoint more than one legal advisers for the Complaints Committee.

Dr Hon Pierre CHAN's Letter

6. We note the issues raised by Dr Hon Pierre CHAN in his letter dated 20 April 2018 (LC Paper No. CB(2)1252/17-18(01)), and have provided a response to the issues vide our letter dated 7 May 2018.

**Food and Health Bureau
Department of Health
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