

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

### **Draft Committee Stage Amendments Proposed by the Government**

#### **Purpose**

This paper sets out the draft Committee Stage Amendments (CSAs)<sup>1</sup> to the Private Healthcare Facilities Bill (the Bill) to be proposed by the Government, after taking into account the comments and suggestions made by Members, the Legal Adviser of the Bills Committee and stakeholders during the scrutiny of the Bill.

#### **Proposed Amendments**

2. The proposed CSAs and a marked-up version of relevant clauses of the Bill are at **Annex A** and **Annex B** respectively. The background and rationale of those proposed CSAs pertaining to several major issues are set out in the ensuing paragraphs, whereas the other CSAs are mainly technical in nature.

(i) Exclusion for the Two Universities

3. 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. At the meeting of the Bills Committee held on 9 October 2017, representatives from the Faculties of Medicine of the two universities expressed the views that facilities managed or controlled by the Faculties should not be regulated under the Bill.

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<sup>1</sup> Subject to further deliberation and discussion.

4. The two universities have already put in place a robust governance structure that is fit-for-purpose with due regard to the nature of their facilities and their unique cohort of stakeholders. In formulating the governance structure, reference has been made to that of the Hospital Authority and The Prince Philip Dental Hospital as appropriate. Duplicating relevant efforts on governance, clinical management and complaints handling, etc. simply to ensure that the facilities operated by 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. With thorough deliberation at previous Bills Committee meetings, 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.

5. Similar exclusion is currently 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”<sup>2</sup>.

6. The proposed CSAs serve to **exclude** the facilities concerned from regulation under the Bill. In other words, any facility meeting the criteria mentioned in paragraph 4 above is not defined as a PHF under the Bill and in turn is not subject to the new regulatory regime.

(ii) Requirement on Appointment of Chief Medical Executive

7. Under clause 53(4) of the Bill, a person must not serve at the same time as the chief medical executive (CME) of more than two day

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<sup>2</sup> 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.

procedure centres or clinics<sup>3</sup>. Such a requirement was proposed to ensure that the CME will be able to take charge of the day-to-day administration of the facilities under his/her responsibilities effectively. Any proposal allowing a CME to take charge of more PHFs must be balanced against its impact on the adequacy and effectiveness of the CME's oversight of the concerned PHFs' day-to-day operation.

8. Some Members and stakeholders have proposed that the Government should consider relaxing the requirement under clause 53(4) of the Bill. After assessing the implications of this proposal in consultation with stakeholders, we propose allowing each CME to take charge of at most three clinics (but not day procedure centres) at the same time.

(iii) Requirement on Separate Entrance

9. In respect of permitted facilities (i.e. licensed facilities and exempted clinics), clauses 66 and 67 of the Bill set out the requirements on having distinct and separate premises as well as separate entrance respectively. Such requirements are in place because they –

- (a) serve to separate a healthcare facility, which is subject to the regulatory measures stipulated in the Bill and the standards to be prescribed in the code(s) of practice, from premises that are not subject to such regulation; and
- (b) facilitate enforcement under the new regime by obviating the need for public officers to pass through some privately-owned premises before reaching the PHF concerned.

10. Some Members and stakeholders have expressed difficulties facing some existing operators in respect of the requirement on separate entrance. Having regard to their views, we propose that the requirement on separate entrance should not apply during the validity period of a provisional clinic licence, subject to certain conditions. This proposal will allow room for existing clinics to continue their operation whilst looking for ways to meet the requirements under clauses 66 and 67 of the Bill, such as when they relocate to new premises after the expiry of the current leases.

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<sup>3</sup> Except in the situation referred to in clause 53(5).

(iv) CSAs Proposed by Hon Tommy CHEUNG pertaining to Price Transparency of Private Hospitals

11. The primary objective of enhancing regulation of PHFs is to enhance the quality and safety of private medical services. It is not the policy intention of the Bill to regulate the price level or structure of services provided by PHFs. As we pointed out at Chapter 8 of the Consultation Document for regulation of PHFs<sup>4</sup>, private medical service should be no different from other business transactions between consenting parties where prices are determined by market force.

12. Nevertheless, whilst pricing should be left to the market, medical service has the unique nature of being asymmetrical in terms of knowledge and information. The Government is committed to enhancing price transparency of PHFs, so that the public could be better informed of price information before making decisions in meeting their medical needs and making necessary financial arrangements in advance. Such practice could also help enhance price certainty and consistency, as well as enable the public to have access to price information in a more user-friendly manner. We have consulted the representatives of private hospitals, patient groups and the Consumer Council, and they are all supportive to the spirit of enhancing price transparency. In this regard, a number of price transparency measures have been incorporated in clauses 61 to 63 under the Bill.

13. The CSAs proposed by Hon Tommy CHEUNG serve to empower the Government to make regulations specifying the price information to be provided by a PHF for the purposes of clause 61 of the Bill, as well as the treatments and procedures for which estimates of fees and charges are to be provided by a hospital for the purposes of clause 62. They are consistent with the Government's policy on promoting price transparency of PHFs. We propose to adopt, with suitable modifications, Hon CHEUNG's proposed CSAs as the Government's proposed CSAs.

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<sup>4</sup> Available at [http://www.fhb.gov.hk/download/press\\_and\\_publications/otherinfo/180500\\_phf/Regulation\\_of\\_PHF\\_con\\_doc\\_e.pdf](http://www.fhb.gov.hk/download/press_and_publications/otherinfo/180500_phf/Regulation_of_PHF_con_doc_e.pdf).

**Food and Health Bureau  
Department of Health  
June 2018**

**Private Healthcare Facilities Bill**

**Committee Stage**

Amendments to be moved by the Secretary for Food and Health

(DRAFT)

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	In the English text, in the definition of <i>specified authority</i> , in paragraph (d), by deleting “Hospital.” and substituting “Hospital;”.
2(1)	By adding in alphabetical order— “ <i>teaching university</i> (教學大學) means a university specified in Schedule 1A.”.
3	By deleting the clause and substituting—  <b>“3. Meaning of <i>private healthcare facility</i></b>  (1) A private healthcare facility is any of the following facilities that is not managed or controlled by a specified authority—  (a) a hospital;  (b) a day procedure centre;  (c) a clinic;  (d) a health services establishment,  other than a day procedure centre, clinic or health services establishment primarily used for teaching or research relating to medicine or dentistry and that is managed or controlled by a teaching university.  (2) Also, a private healthcare facility does not include any premises that are not normally used for medical purposes but are temporarily used for emergency or rescue purposes.”.

- 12(3) In the definition of *excepted premises*, by deleting paragraph (e) and substituting—
- “(e) a day procedure centre, clinic or health services establishment primarily used for teaching or research relating to medicine or dentistry and that is managed or controlled by a teaching university;
  - (f) any premises that are not normally used for medical purposes but are temporarily used for emergency or rescue purposes;”.
- 36(3) By deleting “6” and substituting “12”.
- 50 By deleting “3” and substituting “4”.
- 51(c) In the Chinese text, by deleting “行止端正” and substituting “行事持正”.
- 53(4) By deleting everything after “executive” and substituting—
- “of—
  - (a) if serving only day procedure centres—more than 2 day procedure centres;
  - (b) if serving only clinics—more than 3 clinics; or
  - (c) if serving both—more than 1 day procedure centre and 1 clinic.”.
- 53(5) By deleting “3” and substituting “4”.
- 53(5)(b) By deleting “10” and substituting “8”.
- 56(2) By deleting “3” and substituting “4”.
- 61(1) and (2) By deleting “specified by the Director” and substituting “prescribed by regulations for the purposes of this subsection”.
- 62(1) and (2) By deleting “specified by the Director” and substituting “prescribed by regulations for the purposes of this subsection”.
- 70 By deleting “**Names or descriptions not be used for certain rooms**” and substituting “**“Operating room” etc. not to be used except with prior approval**”.

- 72(1) By deleting paragraph (b) and substituting—  
“(b) one or more legal advisers.”.
- 82(1) By adding—  
“(ab) a next of kin of the patient;”.
- 92(1)(a) In the Chinese text, by adding “及” after “詞語;”.
- 92(6) By deleting everything after “in relation” and substituting—  
“to—  
(a) premises managed or controlled by a specified authority; or  
(b) a day procedure centre, clinic or health services establishment primarily used for teaching or research relating to medicine or dentistry and that is managed or controlled by a teaching university.”.
- 93(1) By deleting “section 42,” and substituting “section 42, or in a notice under section 44,”.
- 96(1) By deleting paragraph (b) and substituting—  
“(b) if proceedings for a compoundable offence have been commenced, apply for a stay and compound the proceedings.”.
- 118(1)(a) By adding “costing and” before “financing”.
- 118 By adding—  
“(1A) The Secretary may in writing authorize a public officer to exercise the power under subsection (1), and the officer may be assisted by any person the officer reasonably requires to exercise the power.”.
- 118(2) By deleting everything after “than” and substituting—  
“the following persons, and the information may only be disclosed and used for the purpose of formulation of healthcare policies—  
(a) the Director;



- (b) the Hospital Authority;
- (c) a public officer authorized under subsection (1A);
- (d) a person referred to in subsection (1A) who assists the public officer.”.

- 118(4) By adding—  
“(da) type of ward;”.
- 118(4)(h) By deleting “size.” and substituting “items and their amounts;”.
- 118(4) By adding—  
“(i) any other information that the Secretary may reasonably require.”.
- 122(2) By adding—  
“(fa) prescribe the price information to be provided, and the way it is to be provided, by the licensee of a private healthcare facility for the purposes of section 61;  
(fb) prescribe the treatments and procedures for which estimates of fees and charges are to be provided, and the way they are to be provided, by the licensee of a hospital for the purposes of section 62;”.
- 123 By deleting “Schedules 1” and substituting “Schedules 1A, 1”.
- 124 In the definition of *registered hospital*, by adding “of a hospital” after “certificate of registration”.
- 124 In the definition of *scheduled nursing home*, by adding “of a nursing home” after “certificate of registration”.
- 125(2) In the Chinese text, by deleting “該等相聯處所(整個處所或根據第(3)款可包括在申請內的某部分)” and substituting “根據第(3)款可包括在申請內的所有該等相聯處所，或(如根據第(3)款，該等處所只有部分可包括在申請內)處所部分”.
- New By adding—  
“**125A. Application for licence where scheduled nursing home**

### **already registered**

- (1) This section applies in relation to a person's application for a hospital licence made under section 13 if—
  - (a) the person is a registered person in relation to a scheduled nursing home;
  - (b) the certificate of registration is valid at the time of the application; and
  - (c) the application is made within the period specified by the Director under subsection (3).
- (2) If a person applies for a hospital licence under section 13 in reliance on this section, the application needs only to be accompanied by the fee specified in item 12 of Schedule 3.
- (3) The Director may, by notice published in the Gazette, specify a period within which an application for a hospital licence under section 13 may be made in reliance on this section.”.

New

By adding—

### **“136A. Shared entrance acceptable in some cases**

- (1) This section applies in relation to a clinic if—
  - (a) a provisional clinic licence is issued for the clinic under section 135(2); and
  - (b) on the date the licence is issued—
    - (i) the clinic has a private entrance that is shared with premises (*shared entrance*) that serve a purpose that is not reasonably incidental to the clinic (*other premises*); and
    - (ii) to access the clinic, it is necessary to pass from the shared entrance through part of the other premises (*passage area*).
- (2) Section 67 does not apply in relation to the clinic during the validity period of the provisional clinic licence while—
  - (a) the other premises are also managed or controlled by the licensee of the clinic;
  - (b) any notice or sign of the clinic is displayed only at,

or in the immediate vicinity of, the direct entrance to the clinic;

- (c) the passage area is not designated for a purpose other than passage or waiting (for example, it is not designated as a changing room);
  - (d) there is nothing in the passage area that blocks access to the clinic; and
  - (e) access to the other premises does not involve passing through the clinic.
- (3) Subsection (2) does not limit any conditions to which the provisional clinic licence may be subject under section 135(4).
- (4) The licensee must ensure that access to the clinic through the passage area is granted to the Director or an authorized officer for the purposes of section 113.
- (5) In this section—

*private entrance* (私人入口) means an entrance to premises that do not consist of any common area of the building in which the premises are situated.”.

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By adding—

“(4) Section 22(5A)(i), Chinese text—

**Repeal**

“診療所”

**Substitute**

“診所”.

(5) Section 22(5A)(ii), Chinese text—

**Repeal**

“診療所”

**Substitute**

“診所”.”.

161

In the proposed section 3(7), by deleting “specified by the Director of Health” and substituting “required”.

New

By adding before Schedule 1—

## **“Schedule 1A**

[ss. 2 & 123]

### **Teaching Universities**

1. The University of Hong Kong
2. The Chinese University of Hong Kong”.

Schedule 3 By deleting “[ss. 25, 108, 123, 125,” and substituting “[ss. 25, 108, 123, 125, 125A,”.

**Private Healthcare Facilities Bill**  
**《私營醫療機構條例草案》**

**Draft Committee Stage Amendments Proposed by the Government**  
**政府建議的委員會審議階段修正案擬稿**

**Marked-up Version**  
**標示版本**

**2. Interpretation**

**2. 釋義**

(1) In this Ordinance—

(1) 在本條例中 ——

...

*specified authority* (指明當局) means—

(a) the Government;

(b) the Hong Kong Garrison;

(c) the Hospital Authority; or

(d) the Board of Governors of The Prince Philip Dental Hospital; [English text only 只限英文文本]

*teaching university* (教學大學) means a university specified in Schedule 1A.

教學大學 (teaching university)指附表 1A 指明的大學；

...

**3. Meaning of *private healthcare facility***

~~A private healthcare facility is any of the following facilities that is not managed or controlled by any specified authority—~~

~~—— (a) a hospital;~~

~~—— (b) a day procedure centre;~~

~~—— (c) a clinic;~~

~~—— (d) a health services establishment;~~

~~and does not include premises that are temporarily used for emergency or rescue purposes.~~

(1) A private healthcare facility is any of the following facilities that is not managed or controlled by a specified authority—

(a) a hospital;

(b) a day procedure centre;

(c) a clinic;

(d) a health services establishment,

other than a day procedure centre, clinic or health services establishment primarily used for teaching or research relating to medicine or dentistry and that is managed or controlled by a teaching university.

(2) Also, a private healthcare facility does not include any premises that are not normally used for medical purposes but are temporarily used for emergency or rescue purposes.

### 3. 何謂私營醫療機構

~~私營醫療機構，是並非由任何指明當局管理或控制的任何以下機構——~~

~~(a) 醫院；~~

~~(b) 日間醫療中心；~~

~~(c) 診所；~~

~~(d) 衛生服務機構，~~

~~但不包括暫時用於緊急或救援用途的處所。~~

(1) 私營醫療機構是並非由指明當局管理或控制的任何以下機構——

(a) 醫院；

(b) 日間醫療中心；

(c) 診所；

(d) 衛生服務機構，

但由教學大學管理或控制，並主要用於關乎醫科或牙科的教學或研究的日間醫療中心、診所或衛生服務機構除外。

(2) 此外，私營醫療機構不包括並非通常用於醫療目的，但暫時用於緊急或救援用途的任何處所。

## 12. Prohibition on performing treatment or procedure causing personal injury

...

(3) In this section—

*excepted premises* (例外處所) means any of the following—

(a) a permitted facility;

(b) any premises specified in Schedule 1;

(c) any premises exempted under section 127;

(d) any premises managed or controlled by a specified authority;

~~(e) any premises that are temporarily used for emergency or rescue purposes;~~

(e) a day procedure centre, clinic or health services establishment primarily used for teaching or research relating to medicine or dentistry and that is managed or controlled by a teaching university;

(f) any premises that are not normally used for medical purposes but are temporarily used for emergency or rescue purposes;

...

**12. 禁止施行導致人身傷害的治療或程序**

...

(3) 在本條中 ——

**例外處所** (excepted premises)指任何以下地方 ——

- (a) 獲准機構；
- (b) 附表 1 指明的任何處所；
- (c) 根據第 127 條獲豁免的任何處所；
- (d) 由指明當局管理或控制的任何處所；
- (e) 暫時用於緊急或救援用途的任何處所；由教學大學管理或控制，並主要用於關乎醫科或牙科的教學或研究的日間醫療中心、診所或衛生服務機構；
- (f) 並非通常用於醫療目的，但暫時用於緊急或救援用途的任何處所；

...

**36. Cancellation etc. of licence on death of individual licensee**

...

(3) Alternatively, the Director may, if satisfied that the conditions specified in subsection (4) are met, defer the cancellation of the licence until the expiry of **612** weeks after the date of death of the licensee.

...

**36. 在屬個人的持牌人去世時，撤銷牌照等**

...

(3) 署長如信納第(4)款指明的條件符合，亦可延遲撤銷牌照，直至有關持牌人去世日期後的 **612** 個星期屆滿為止。

...

**50. Appointment for group of clinics**

For the purposes of section 49(1), if **34** or more clinics are operated at the same time by the same licensee, the licensee may appoint a single chief medical executive for the clinics if the licensee—

- (a) has established a Medical Advisory Committee for the clinics; and
- (b) has appointed for each of the clinics a registered medical practitioner, or a registered dentist, who is serving the clinic to assist the chief medical executive in carrying out the day to day administration of the clinic.

**50. 為一組診所作出委任**

為施行第 49(1)條，凡同一持牌人同時營辦 **34** 間或多於 **34** 間的診所，如該持牌人已採取以下行動，則可只委任一人，擔任該等診所的醫務行政總監 ——

- (a) 為該等診所，成立醫務顧問委員會；及
- (b) 為每一間該等診所，委任一名在該診所應診的註冊醫生或註冊牙醫，協助該總監進行該診所的日常管理。

51. 一般規定

私營醫療機構的醫務行政總監 ——

- (a) 須具備管理該機構所屬類型的私營醫療機構所需的資格及經驗；
- (b) 其身體及精神狀況，須適合管理該機構所屬類型的私營醫療機構；及
- (c) 須屬行止端正行事持正，並具有良好品格的人。[Chinese text only 只限中文文本]

53. Additional requirements for day procedure centres or clinics

...

- (4) A person must not serve at the same time as the chief medical executive of ~~more than 2 day procedure centres or clinics:~~
  - ~~(a) if serving only day procedure centres—more than 2 day procedure centres;~~
  - ~~(b) if serving only clinics—more than 3 clinics; or~~
  - ~~(c) if serving both—more than 1 day procedure centre and 1 clinic.~~
- (5) However, a person may serve as a chief medical executive of 34 or more clinics if the person—
  - (a) is appointed under section 50;
  - (b) is a registered medical practitioner or a registered dentist who has been registered for not less than 108 years in Hong Kong; and
  - (c) does not serve at the same time as a chief medical executive of another private healthcare facility.

53. 對日間醫療中心或診所的額外規定

...

- (4) 任何人不得同時在~~超過2間日間醫療中心或診所~~擔任醫務行政總監。 ——
  - ~~(a) 超過2間日間醫療中心；~~
  - ~~(b) 超過3間診所；或~~
  - ~~(c) 超過1間日間醫療中心及1間診所，~~  
~~擔任醫務行政總監。~~
- (5) 然而，任何人如符合以下說明，可在 34 間或多於 34 間的診所，擔任醫務行政總監 ——
  - (a) 該人根據第 50 條獲委任；
  - (b) 該人是在香港註冊不少於 108 年的註冊醫生或註冊牙醫；及
  - (c) 該人沒有同時在另一間私營醫療機構，擔任醫務行政總監。

56. Application of Division 3

...

- (2) Also, 34 or more clinics operated at the same time by the same licensee that has appointed, or that seeks to appoint, a single chief medical executive for the



clinics under section 50 are collectively regarded as 1 private healthcare facility to which this Division applies.

**56. 第 3 分部的適用範圍**

...

- (2) 凡同一持牌人同時營辦 34 間或多於 34 間的診所，如該持牌人符合以下說明，則該等診所共同視作一個本分部適用的私營醫療機構：該持牌人已按照第 50 條，或尋求根據第 50 條，就該等診所委任一名醫務行政總監。

**61. Price information**

- (1) The licensee of a private healthcare facility must make available to the public information about the prices of chargeable items and services provided in the facility as ~~specified by the Director~~prescribed by regulations for the purposes of this subsection.
- (2) The licensee must ensure that the information is provided to the public in the way ~~specified by the Director~~prescribed by regulations for the purposes of this subsection.

**61. 價目資料**

- (1) 私營醫療機構的持牌人，須將~~署長指明規例為施行本款而訂明~~的、關於該機構提供的收費項目及服務的價目資料，供公眾人士知悉。
- (2) 有關持牌人須確保，有關資料以~~署長指明規例為施行本款而訂明~~的方式，提供予公眾人士。

**62. Budget estimate**

- (1) The licensee of a hospital must put in place a budget estimate system to provide estimates of the fees and charges of the hospital for the treatments and procedures ~~specified by the Director~~prescribed by regulations for the purposes of this subsection.
- (2) The licensee must ensure that each patient is provided, in the way ~~specified by the Director~~prescribed by regulations for the purposes of this subsection, with a budget estimate form providing an estimate of the fees and charges for the treatments or procedures intended to be undertaken by the patient.

**62. 服務費用預算**

- (1) 醫院的持牌人須設立服務費用預算制度，以就~~署長指明規例為施行本款而訂明~~的治療及程序，提供該醫院的費用及收費的估算。
- (2) 有關持牌人須確保，每名病人均以~~署長指明規例為施行本款而訂明~~的方式，獲提供一份服務費用預算表格，該表格就有關病人擬接受的治療或程序的費用及收費，提供估算。

70. ~~Names or descriptions not be used for certain rooms~~ “Operating room” etc. not to be used except with prior approval

...

70. 某些房間不得應用的名稱或描述無事先批准，則不得用“手術室”等稱述

...

72. **Appointment of secretary and legal adviser**

(1) The Secretary is to appoint the following for the Complaints Committee for a period and on the terms specified in the letter of appointment—

- (a) a secretary who is a public officer;
- (b) ~~a legal adviser~~ one or more legal advisers.

...

72. **委任秘書及法律顧問**

(1) 局長須為投訴委員會委任 ——

- (a) 一名秘書，秘書須由公職人員擔任；
- (b) ~~一名法律顧問，~~ 一名或多於一名法律顧問，

秘書及法律顧問的任期及委任條款，在其委任函中指明。

...

82. **Making facility complaint**

(1) The following persons may make a complaint to the Complaints Committee against a private healthcare facility for which a licence is in force—

- (a) a patient of the facility;
- (ab) a next of kin of the patient;
- (b) a substitute decision maker of the patient;
- (c) a person authorized by the patient in writing to make a complaint;
- (d) the personal representative of the patient.

...

82. **作出對機構投訴**

(1) 以下人士可針對領有有效牌照的私營醫療機構，向投訴委員會作出投訴 ——

- (a) 該機構的病人；
- (ab) 該病人的最近親；
- (b) 該病人的代決人；
- (c) 獲該病人書面授權作出投訴的人；
- (d) 該病人的遺產代理人。

...

## 92. Prohibited use of titles or descriptions

...

- (6) This section does not apply in relation to ~~premises managed or controlled by a specified authority.~~
- (a) premises managed or controlled by a specified authority; or
- (b) a day procedure centre, clinic or health services establishment primarily used for teaching or research relating to medicine or dentistry and that is managed or controlled by a teaching university.

## 92. 禁止使用某些名稱或描述

- (1) 除非事先獲署長書面批准，或除非任何其他法律有所規定或准許，任何處所(獲准機構除外)不得應用符合以下說明的名稱或描述——
- (a) 包含附表 7 指明的詞語，或相類的詞語；及 [Chinese text only 只限中文文本]
- (b) 顯示在該處所提供的服務，屬在私營醫療機構提供的醫療服務。

...

- (6) ~~凡任何處所由指明當局管理或控制，本條並不就該以下處所而適用。——~~
- (a) 由指明當局管理或控制的處所；或
- (b) 由教學大學管理或控制，並主要用於關乎醫科或牙科的教學或研究的日間醫療中心、診所或衛生服務機構。

## 93. Making false or misleading statements or representations

- (1) If a person makes a statement or representation in an application under this Ordinance, or in a request under section 42, or in a notice under section 44, or to the Complaints Committee, the person commits an offence if—
- (a) the statement or representation is false or misleading in a material particular; and
- (b) the person knows or is reckless as to whether the statement or representation is false or misleading in a material particular.

...

## 93. 作出虛假或具誤導性的陳述或申述

- (1) ~~如任何人在根據本條例提出的申請中作出，或在根據第 42 條提出的要求中作出如任何人在根據本條例提出的申請中、在第 42 條所指的要求中或在第 44 條所指的通知中，作出陳述或申述，或向投訴委員會作出陳述或申述，而——~~
- (a) 該陳述或申述，在要項上屬虛假或具誤導性；及
- (b) 該人明知該陳述或申述在要項上屬虛假或具誤導性，或罔顧該陳述或申述是否在要項上屬虛假或具誤導性，
- 該人即屬犯罪。

...

**96. Compounding of offences**

- (1) The Director may—
- (a) compound any compoundable offence; and
  - (b) ~~before judgment, apply for a stay and compound any proceedings for the offence.~~ if proceedings for a compoundable offence have been commenced, apply for a stay and compound the proceedings.

...

**96. 罰款抵罪**

- (1) 署長可 ——
- (a) 就任何可罰款抵罪的罪行，實行罰款抵罪；及
  - (b) ~~在就該罪行提起的法律程序獲判決前，擱置該法律程序，及以罰款了結。~~ 如已就某可罰款抵罪的罪行，展開法律程序——申請擱置該法律程序，並以罰款了結。

...

**118. Secretary may require information from licensees**

- (1) The Secretary may, for the formulation of healthcare policies, require the licensee of a private healthcare facility to provide any information that the Secretary considers necessary in relation to the facility with regard to the following matters—
- (a) the costing and financing of healthcare services and manpower;
  - (b) the provision of healthcare services and manpower.

(1A) The Secretary may in writing authorize a public officer to exercise the power under subsection (1), and the officer may be assisted by any person the officer reasonably requires to exercise the power.

- (2) The Secretary must not disclose information provided under subsection (1) to any person other than ~~the Director or the Hospital Authority, and the information may only be disclosed for the purpose of formulation of healthcare policies.~~ the following persons, and the information may only be disclosed and used for the purpose of formulation of healthcare policies—

- (a) the Director;
- (b) the Hospital Authority;
- (c) a public officer authorized under subsection (1A);
- (d) a person referred to in subsection (1A) who assists the public officer.

...

- (4) Information in relation to a patient required under subsection (1) may only be any or all of the following information—
- (a) unique record number;
  - (b) age;
  - (c) sex;
  - (d) type of care received and procedure carried out;
  - (da) type of ward;
  - (e) admission date;

- (f) date of discharge or death;
- (g) diagnosis on discharge;
- (h) ~~bill-size items and their amounts;~~
- (i) any other information that the Secretary may reasonably require.

...

#### 118. 局長可要求持牌人提供資料

- (1) 局長可為制訂醫療政策，要求某私營醫療機構的持牌人，就該機構提供局長認為需要的、關於以下事宜的資料——
  - (a) 醫護服務及人力的資金提供成本和收支；
  - (b) 醫護服務及人力的提供。

(1A) 局長可藉書面授權某公職人員，行使第(1)款之下的權力，而該人員可由行使該權力合理所需的任何人協助。

- (2) 局長不得向署長或醫院管理局以下人士以外的任何人，披露根據第(1)款提供的資料，而該等資料只可為制訂醫療政策而披露和使用。——
  - (a) 署長；
  - (b) 醫院管理局；
  - (c) 根據第(1A)款獲授權的公職人員；
  - (d) 第(1A)款提述的協助公職人員的人。

...

- (4) 局長根據第(1)款要求就某病人提供的資料，只限於任何或所有以下資料——
  - (a) 獨有紀錄號碼；
  - (b) 年齡；
  - (c) 性別；
  - (d) 接受的護理和施行的程序的類型；
  - (da) 病房類型；
  - (e) 入院日期；
  - (f) 出院或死亡日期；
  - (g) 出院時的診斷；
  - (h) 帳單銀碼—項目及項目金額；
  - (i) 局長按理可要求的任何其他資料。

...

#### 122. Regulations

...

- (2) Without limiting subsection (1), the Secretary may by regulation—
  - (a) provide for administrative procedures, forms, and registers for the purposes of this Ordinance;
  - (b) provide for the management and control of private healthcare facilities;

- (c) provide for the standards of accommodation, staffing, equipment, delivery of care, and operation or provision of any services, in private healthcare facilities;
- (d) provide for appointments, qualifications, duties and responsibilities of licensees and chief medical executives and other personnel of private healthcare facilities;
- (e) provide for the assessment on attainment of standards of, or compliance with requirements by, private healthcare facilities, and the establishment or adoption of any scheme of accreditation for making the assessment;
- (f) provide for the records, books, accounts, audits and reports relating to private healthcare facilities to be made, kept or submitted to the Director;
- (fa) prescribe the price information to be provided, and the way it is to be provided, by the licensee of a private healthcare facility for the purposes of section 61;
- (fb) prescribe the treatments and procedures for which estimates of fees and charges are to be provided, and the way they are to be provided, by the licensee of a hospital for the purposes of section 62;

...

## 122. 規例

...

- (2) 在不局限第(1)款的原則下，局長可訂立規例 ——
  - (a) 為施行本條例，就行政程序、表格、格式及登記冊，訂定條文；
  - (b) 就私營醫療機構的管理及掌控，訂定條文；
  - (c) 就私營醫療機構的房舍、人手、設備、提供護理，及運作或提供任何服務的標準，訂定條文；
  - (d) 就私營醫療機構的持牌人及醫務行政總監及其他人員的委任、資格、職責及責任，訂定條文；
  - (e) 就評估私營醫療機構是否達到標準和遵守規定，及為進行該等評估而設立或採用任何認證制度，訂定條文；
  - (f) 就須作出、備存或提交予署長的、關乎私營醫療機構的紀錄、簿冊、帳目、審計及報告，訂定條文；
  - (fa) 為施行第 61 條，訂明私營醫療機構的持牌人須提供的價目資料，以及提供該資料的方式；
  - (fb) 為施行第 62 條，訂明醫院的持牌人須就何種治療及程序，提供費用及收費的估算，以及訂明須以何種方式，提供該等估算；

...

## 123. Amendment of Schedules

The Secretary may, by notice published in the Gazette, amend Schedules 1A, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

## 123. 修訂附表

局長可藉於憲報刊登的公告，修訂附表 1A、1、2、3、4、5、6、7、8 及 9。

124. Interpretation of Part 9

124. 第 9 部的釋義

In this Part—

在本部中 ——

...

*registered hospital* (註冊醫院) means a hospital, as defined in the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), for which a certificate of registration of a hospital is issued;

**註冊醫院** (registered hospital)指《醫院、護養院及留產院註冊條例》(第 165 章)所界定的醫院，而該醫院已獲發出**醫院**註冊證明書；

...

*scheduled nursing home* (附表護養院) means a nursing home listed in Schedule 9 for which a certificate of registration of a nursing home is valid as at 1 April 2017.

**附表護養院** (scheduled nursing home)指附表 9 所列的護養院，而該護養院領有在 2017 年 4 月 1 日仍生效的**護養院**註冊證明書；

...

125. 就已註冊醫院申請牌照

...

- (2) 如上述證明書述明，有關註冊醫院的處所，包括一所主要醫院(**主要處所**)及其他設施(**相聯處所**)，上述註冊人士於提出申請時，只可就該主要處所及該等相聯處所(整個處所或根據第(3)款可包括在申請內的某部分)根據第(3)款可包括在申請內的所有該等相聯處所，或(如根據第(3)款，該等處所只有部分可包括在申請內)處所部分，申請單一牌照。[Chinese text only 只限中文文本]

...

Adding clause 125A after clause 125—

**125A. Application for licence where scheduled nursing home already registered**

(1) This section applies in relation to a person's application for a hospital licence made under section 13 if—

(a) the person is a registered person in relation to a scheduled nursing home;

(b) the certificate of registration is valid at the time of the application; and

(c) the application is made within the period specified by the Director under subsection (3).

(2) If a person applies for a hospital licence under section 13 in reliance on this section, the application needs only to be accompanied by the fee specified in item 12 of Schedule 3.

- (3) The Director may, by notice published in the Gazette, specify a period within which an application for a hospital licence under section 13 may be made in reliance on this section.

在第 125 條後加入新的第 125A 條—

**125A. 就已註冊附表護養院申請牌照**

- (1) 如屬以下情況，則本條就某人根據第 13 條提出的醫院牌照申請而適用——
- (a) 該人就某附表護養院而言，屬註冊人士；
  - (b) 於該申請提出時，就該護養院發出的註冊證明書，仍然有效；及
  - (c) 該申請在署長根據第(3)款指明的期間內提出。
- (2) 如有人依據本條，申請第 13 條所指的醫院牌照，該申請只需附有附表 3 第 12 項指明的費用。
- (3) 署長可藉於憲報刊登的公告，指明一個期間，而要求發出第 13 條所指的醫院牌照的申請，可依據本條於該期間內提出。

Adding clause 136A after clause 136—

**136A. Shared entrance acceptable in some cases**

- (1) This section applies in relation to a clinic if—
- (a) a provisional clinic licence is issued for the clinic under section 135(2);  
and
  - (b) on the date the licence is issued—
    - (i) the clinic has a private entrance that is shared with premises (*shared entrance*) that serve a purpose that is not reasonably incidental to the clinic (*other premises*); and
    - (ii) to access the clinic, it is necessary to pass from the shared entrance through part of the other premises (*passage area*).
- (2) Section 67 does not apply in relation to the clinic during the validity period of the provisional clinic licence while—
- (a) the other premises are also managed or controlled by the licensee of the clinic;
  - (b) any notice or sign of the clinic is displayed only at, or in the immediate vicinity of, the direct entrance to the clinic;
  - (c) the passage area is not designated for a purpose other than passage or waiting (for example, it is not designated as a changing room);
  - (d) there is nothing in the passage area that blocks access to the clinic; and
  - (e) access to the other premises does not involve passing through the clinic.
- (3) Subsection (2) does not limit any conditions to which the provisional clinic licence may be subject under section 135(4).
- (4) The licensee must ensure that access to the clinic through the passage area is granted to the Director or an authorized officer for the purposes of section 113.
- (5) In this section—
- private entrance* (私人入口) means an entrance to premises that do not consist of any common area of the building in which the premises are situated.



在第 136 條後加入新的第 136A 條—

**136A. 在某些情況下，可接受共用入口**

- (1) 在以下情況下，本條就某診所而適用 ——
- (a) 該診所根據第 135(2)條，獲發診所暫准牌照；及
  - (b) 在該牌照發出當日 ——
    - (i) 該診所與並非為該診所合理附帶的目的而設的處所(其他處所)，共用某私人入口(共用入口)；及
    - (ii) 要到達該診所，必需從共用入口通過有關的其他處所的部分(通道範圍)。
- (2) 在以下情況下，於有關診所暫准牌照的有效期間，第 67 條並不就有關診所而適用 ——
- (a) 有關的其他處所，亦由該診所的持牌人管理或控制；
  - (b) 該診所的任何告示或標誌，只展示於該診所的直接入口，或該入口的最接近處；
  - (c) 有關的通道範圍，並非指定作通行或等候以外的用途(例如，該範圍並非指定用作更衣室)；
  - (d) 在該通道範圍內，沒有物件阻礙到達該診所；及
  - (e) 無需通過該診所，便可到達該其他處所。
- (3) 第(2)款並不局限第 135(4)條所指的、規限有關診所暫准牌照的任何條件。
- (4) 有關持牌人須確保，為施行第 113 條，署長或獲授權人員獲准通過有關的通道範圍而到達有關診所。
- (5) 在本條中 ——
- 私人入口 (private entrance)指位於某建築物的處所的入口，而該建築物的任何公用地方，並不包含在該處所內。

**154. Section 22 amended (statutory authority for certain persons to possess, supply or manufacture dangerous drugs)**

...

- (4) Section 22(5A)(i), Chinese text—

**Repeal**

“診療所”

**Substitute**

“診所”。

- (5) Section 22(5A)(ii), Chinese text—

**Repeal**

“診療所”

**Substitute**

“診所”。

**154. 修訂第 22 條(若干人士管有、供應或製造危險藥物的法定權限)**

...

- (4) 第 22(5A)(i)條，中文文本 ——

廢除

“診療所”

代以

“診所”。

(5) 第 22(5A)(ii)條，中文文本 ——

廢除

“診療所”

代以

“診所”。

**161. Section 3 amended (prohibition of advertisements relating to certain diseases; exceptions therefrom)**

At the end of section 3—

**Add**

“(7) Subsection (1) does not apply to any publication of price information or historical statistics on fees and charges ~~specified by the Director of Health~~required under the Private Healthcare Facilities Ordinance ( of 2017).”.

**161. 修訂第 3 條(禁止有關某些疾病的廣告；例外情況)**

在第 3 條的末處 ——

**加入**

“(7) 第(1)款不適用於衛生署署長根據《私營醫療機構條例》(20172018 年第 號)指明所規定的任何價目資料或過往費用及收費的統計數據的公布。”。

Adding Schedule 1A before Schedule 1—

**Schedule 1A**

[ss. 2 & 123]

**Teaching Universities**

**1. The University of Hong Kong**

**2. The Chinese University of Hong Kong**

在附表 1 前加入新的附表 1A—

## 附表 1A

[第 2 及 123 條]

### 教學大學

1. 香港大學
2. 香港中文大學

## **Schedule 3**

[ss. 25, 108, 123, 125, 125A,  
134 & 135]

...

## **附表 3**

[第 25、108、123、125、  
125A、134 及 135 條]

...