



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our Ref. : FHB/H/53/6
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Ms Maisie LAM
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms LAM,

Bills Committee on Private Healthcare Facilities Bill
Letter from Dr Hon Pierre CHAN

I refer to your letter dated 20 April 2018 requesting us to give a response to Dr Hon Pierre CHAN's letter of the same date. Our reply is set out in the ensuing paragraphs.

Small Practice Clinics

2. Clause 41 of the Private Healthcare Facilities Bill (the Bill) sets out the definition of a small practice clinic. The sole proprietor, partners or directors of a company who is or are the operator(s) of a small practice clinic must be (and be the only) registered medical practitioner(s) or registered dentist(s) responsible for the management of the clinic as well as practising in the clinic. For a small practice clinic operated by a partnership or company, the total number of days for which another registered medical practitioner or registered dentist takes up the duties of a partner or director in the clinic because of the partner's or director's absence from the clinic must not exceed 60 days in a calendar year. The

aggregate number of days for the taking up of duties by other registered medical practitioners or registered dentists for the partners or directors operating the clinic must not exceed 180 days in a calendar year. Under clauses 41(5) and 41(6) of the Bill, “another registered medical practitioner”, “another registered dentist” and “other registered medical practitioners or registered dentists” do not include the other original partners or directors of the clinic. In other words, when a partner or director is absent from the clinic, the number of days for which another partner or director serves the clinic because of that person’s absence will not be counted in the number of days stipulated in clauses 41(5) and 41(6).

3. The aforementioned arrangements serve to provide flexibility, allowing stand-in arrangements for medical practitioners or dentists who serve a small practice clinic when they are on leave (commonly known as “locum” in the sector). We consider it appropriate to set the ceiling specified in clause 41(6) of the Bill at 180 days in a calendar year, in response to the trade’s specific request in relation to operating a small practice clinic. If we further relax this requirement, a medical practitioner or dentist not involved in management of a small practice clinic will be allowed to serve the clinic for more than half of a year. It may be against our original intention of granting exemptions to eligible small practice clinics.

4. A person that operates, or intends to operate, a small practice clinic may ask the Director of Health (Director) for a letter of exemption for the clinic under clause 42 of the Bill. Clause 43 of the Bill stipulates that on receiving such a request, the Director may issue to the person a letter of exemption for the clinic if the Director is satisfied that -

- (a) the clinic is a small practice clinic; and
- (b) none of the individuals signing the request is for the time being in any of the following capacities (in whatever combination) for three or more other exempted clinics (i.e. small practice clinics for which exemptions are in force) -
 - (i) the sole proprietor of an exempted clinic;
 - (ii) a partner of a partnership operating an exempted clinic; and
 - (iii) a director of a company operating an exempted clinic.

On the other hand, clause 43(4) of the Bill provides that the Director must refuse to issue a letter of exemption if the Director considers it inappropriate for the person making the request to carry on the practice in the clinic without a licence. In addition, a letter of exemption will not

be issued to a small practice clinic which does not meet the requirements under the Bill applicable to exempted clinics (including the requirements stipulated in clauses 66, 67, 68 and 70). In any case, the person making the request may apply for a licence to operate the clinic.

5. Under clause 45 of the Bill, the Director may, by notice in writing to the operator of an exempted clinic, revoke the exemption on a ground specified in clause 46 of the Bill. The grounds specified in clause 46 of the Bill include the following -

- (a) the Director considers that the clinic has been operated in a way contrary to the public interest (see clause 46(g) of the Bill); and
- (b) the Director considers for another reason that it would be inappropriate for the exemption to continue to be in force (see clause 46(h) of the Bill), etc.

6. The situations referred to in paragraphs 5(a) and 5(b) include unsatisfactory performance of the exempted clinic concerned in facility management, service quality and patient safety (such as drug management and infection control) that has rendered its continued operation inappropriate or even risky to the public. For the sake of public interest, the Director should be empowered to revoke a clinic's exemption under the aforementioned scenarios. After the exemption concerned is revoked, the operator is required to apply for a licence in order to continue to operate the clinic. For licensed facilities, the Department of Health (DH) may conduct inspections to closely monitor such facilities and ensure that their operation meets the standards stipulated in the code of practice, thereby enhancing patient safety and improving service quality.

Implementation of the Revamped Regulatory Regime

7. DH conducted in 2016 a survey on private clinics and day procedure centres in the market. According to its findings, there are around 5 500 premises providing ambulatory services in Hong Kong, including 500 day procedure centres and 5 000 medical and/or dental clinics. It is estimated that around 70% of such clinics are small practice clinics that may be eligible for exemption. We will commence the regulatory regime in phases based on the types of private healthcare facilities (PHFs) and their risk levels. We will commence registration for individual types of PHFs first; provisions prohibiting the operation of the types of PHFs concerned without a licence and prescribing other related offences will then be put in force, when we consider that both the

public and stakeholders are ready for full-scale regulation of the types of PHFs concerned (including when they have obtained provisional licences or letters of exemption). Subject to the passing of the Bill in 2018 and the readiness of the stakeholders, we plan to commence registration for private hospitals in 2019, to be followed by day procedure centres and clinics in 2020 and 2021 respectively. We will keep engaging stakeholders, including the professional councils/authorities, professional associations and patient groups concerned, on the implementation of the regulatory regime to ensure that various parties are ready for its implementation.

8. When DH starts to receive applications for licences for clinics, it will also receive requests for letters of exemption in respect of small practice clinics. Once the provisions prohibiting the operation of a clinic without a licence are put in force, a person will commit an offence if the person operates a clinic without a licence (including a provisional licence) or a letter of exemption. Therefore, we advise that the operators should apply for licences or make requests for letters of exemption for the clinics they operate as early as possible. At present, in respect of an application for registration as a clinic under the Medical Clinics Ordinance (Cap. 343), the applicant should submit to DH an application at least one month before commencement of the clinic's operation. DH will issue a certificate of registration within 14 working days upon verification of compliance with the registration requirements. Subject to the actual number of applications/requests and manpower, we hope that under normal circumstances, the time for processing a clinic's licence application or request for a letter of exemption under the new regime will be comparable to that for processing a registration application under Cap. 343 currently. However, we expect that at the early stage of the new regime, DH will receive a large number of applications/requests, which will take longer processing time than usual. We will announce in a timely manner the detailed requirements of such applications/requests and specific processing time.

9. After the Bill is enacted, a series of publicity activities, such as letters to all doctors and dentists in Hong Kong, briefing sessions on the regulatory requirements and application procedures, Announcements in the Public Interest as well as online publications, will be rolled out to ensure that the public and stakeholders are informed of the commencement dates of various provisions of the Bill and the detailed arrangements of the phased implementation. We will also disseminate relevant information to stakeholders via professional associations.

Dangerous Drugs Ordinance

10. Section 23(1)(a) of the Dangerous Drugs Ordinance (Cap. 134) imposes restrictions on the supply of dangerous drugs by registered dentists. Such restrictions are issues pertaining to the professional practice of dentists and the overall regulation of dangerous drugs, and cannot be handled under the Bill. We have conveyed the industry's views on this front to the relevant Bureau for consideration and follow-up.

Regulation of Medical Laboratories

11. Under the revamped regulatory framework, we focus on regulating premises where registered medical practitioners and registered dentists practise. The Bill does not cover premises where only healthcare professionals who are neither registered medical practitioners nor registered dentists (such as Chinese medicine practitioners, medical laboratory technologists, physiotherapists and optometrists) practise. Such professionals will continue to be regulated under the relevant laws and codes of practice. At the moment, we do not see a need to regulate medical laboratories under the Bill. Nonetheless, the services provided by healthcare professionals (e.g. pathology services) in the premises of licensed PHFs will be regulated as part of the facility service under the new regulatory regime. At present, supporting services (e.g. laboratory services) are available in certain hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), and such services are being regulated under Cap. 165 as part of the hospital services. Under the new regime, there will be no change in regulatory arrangements in respect of the services provided by healthcare professionals who are neither registered medical practitioners nor registered dentists.

Yours sincerely,



(Bill LI)

for Secretary for Food and Health