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Legislative Council

LC Paper No. CB(2)1226/16-17
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HS

Panel on Health Services

Minutes of meeting
held on Monday, 19 December 2016, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present	:	Prof Hon Joseph LEE Kok-long, SBS, JP (Chairman) Dr Hon Pierre CHAN (Deputy Chairman) Hon James TO Kun-sun Hon Tommy CHEUNG Yu-yan, GBS, JP Hon WONG Ting-kwong, SBS, JP Hon LEUNG Kwok-hung Hon WU Chi-wai, MH Hon YIU Si-wing, BBS Hon Charles Peter MOK, JP Hon CHAN Chi-chuen Hon CHAN Han-pan, JP Hon Alice MAK Mei-kuen, BBS, JP Dr Hon KWOK Ka-ki Dr Hon Fernando CHEUNG Chiu-hung Dr Hon Helena WONG Pik-wan Dr Hon Elizabeth QUAT, JP Hon POON Siu-ping, BBS, MH Dr Hon Junius HO Kwan-yiu, JP Hon SHIU Ka-fai Hon SHIU Ka-chun Hon YUNG Hoi-yan Hon Tanya CHAN Hon KWONG Chun-yu Hon Jeremy TAM Man-ho
Member attending	:	Hon Martin LIAO Cheung-kong, SBS, JP

Members absent	:	Hon CHAN Kin-por, BBS, JP Hon Paul TSE Wai-chun, JP Hon CHU Hoi-dick Hon HUI Chi-fung Hon Nathan LAW Kwun-chung
Public Officers attending	:	Items III to IV Professor Sophia CHAN Siu-chee, JP Under Secretary for Food and Health Item III Miss Linda LEUNG Principal Assistant Secretary for Food and Health (Health) 2 Dr CHEUNG Wai-lun Director (Cluster Services) Hospital Authority Ms Anna LEE Chief Pharmacist Hospital Authority Ms Ivis CHUNG Chief Manager (Allied Health) Hospital Authority Item IV Ms Wendy AU Wan-sze Principal Assistant Secretary for Food and Health (Health) Special Duties 1 Food and Health Bureau Dr Tina CHAN Siu-mui Assistant Director of Health (Special Health Services) Department of Health Dr Jeff LEE Pui-man Head (Tobacco Control Office) Department of Health

Clerk in attendance	:	Ms Maisie LAM Chief Council Secretary (2) 5
Staff in attendance	:	Ms Janet SHUM Senior Council Secretary (2) 5 Ms Priscilla LAU Council Secretary (2) 5 Miss Maggie CHIU Legislative Assistant (2) 5

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I. Information paper(s) issued since the last meeting

[LC Paper Nos. CB(2)258/16-17(01), CB(2)329/16-17(01), CB(2)357/16-17(01), CB(2)430/16-17(01), CB(2)438/16-17(01), CB(2)446/16-17(01) and CB(2)452/16-17(01)]

Members noted the following papers issued since the last meeting:

(a) Information paper provided by the Administration on the proposed amendments to the Schedule to the Declaration of Mental Hospital (Consolidation) Order;

(b) 2015-2016 Annual Report of the Health and Medical Research Fund provided by the Administration;

(c) Letter dated 7 December 2016 from Dr Fernando CHEUNG requesting an early discussion by the Panel on issues relating to the redevelopment of the Prince of Wales Hospital ("PWH"), phase 2 (stage 1);

(d) Referral from the Public Complaints Office of the Legislative Council Secretariat on issues relating to healthcare services for grass-roots elderly;

(e) Letter dated 15 December 2016 from Dr Fernando CHEUNG requesting an urgent discussion by the Panel on the review of the fees and charges for public hospital services;

(f) Administration's response to the issues raised in the letter dated 7 December 2016 from Dr Fernando CHEUNG concerning the redevelopment of PWH, phase 2 (stage 1); and

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(g) Letter dated 16 December 2016 from Dr Pierre CHAN requesting the Panel to hold a special meeting to discuss the review of the fees and charges of public hospital services.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)386/16-17(01) and (02)]

2. Expressing concern that the Accident and Emergency Department of the Tin Shui Wai Hospital ("TSWH") would only start to provide eight-hour services in March 2017 following the commencement of operation of the hospital in January 2017, Dr KWOK Ka-ki considered that the Panel should discuss the commissioning of TSWH at the earliest possible time.

3. Dr Fernando CHEUNG referred members to his letters dated 7 and 15 December 2016 (LC Paper Nos. CB(2)357/16-17(01) and CB(2)438/16-17(01)). He considered that the Panel should hold an urgent discussion on both the placement of residents of the social services units affected by phase two redevelopment of PWH, and the review of the fees and charges of public hospital services conducted by the Hospital Authority ("HA").

4. The Chairman suggested and members agreed to discuss the subjects "Review of the fees and charges of public hospital services" and "Proposed regulatory framework for medical devices" at the next regular meeting scheduled for 16 January 2017 at 4:30 pm. Subject to the position of the Administration on the timing for discussing its proposed item "Consultation report on Voluntary Health Insurance Scheme" (item 2 on the Panel's list of outstanding items for discussion referred), the Panel would also discuss the subjects "Commissioning of TSWH" and "Placement of residents of the social services units affected by phase two redevelopment of PWH" at the January regular meeting.

(*Post-meeting note:* With the concurrence of the Administration and the Chairman, the subject "Consultation report on Voluntary Health Insurance Scheme" has been scheduled for discussion at the January regular meeting of the Panel, whereas the subjects "Commissioning of TSWH" and "Placement of residents of the social services units affected by phase two redevelopment of PWH" have been scheduled for discussion at the special meeting of the Panel held on 17 January 2017.)

5. Mr CHAN Han-pan considered that issues relating to the drugs and the provision of prenatal test for rare diseases should be discussed by the Panel at a future meeting. The Chairman suggested that subject to the

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discussion on the agenda item "Drug management of HA" at this meeting, members could consider discussing issues relating to the policy on and drug treatments for rare diseases at the Panel's February regular meeting.

III. Drug management of HA

[LC Paper Nos. CB(2)370/16-17(01), CB(2)386/16-17(03) to (04) and CB(2)437/16-17(01)]

6. Under Secretary for Food and Health ("USFH") briefed members on the drug management system of HA, and the action plan of HA to further enhance the system in light of the findings of the value-for-money audit on HA's drug management as set out in Chapter 5 of Report No. 67 of the Director of Audit ("the Audit Report"), details of which were set out in the Administration's paper (LC Paper No. CB(2)386/16-17(03)).

7. Members noted the background brief entitled "Drug management of the Hospital Authority" prepared by the Legislative Council ("LegCo") Secretariat (LC Paper No. CB(2)386/16-17(04)).

8. Members also noted the letter dated 7 December 2016 from Mr CHAN Han-pan requesting the Panel to discuss issues relating to the inclusion of Eculizumab in the HA Drug Formulary for patients with paroxysmal nocturnal hemoglobinuria ("PNH") (LC Paper No. CB(2)370/16-17(01)), and the letter dated 14 December 2016 from Dr Fernando CHEUNG requesting the Panel to discuss the policy on and drugs for rare diseases (LC Paper No. CB(2)437/16-17(01)).

Review of the drug management of HA

9. Dr KWOK Ka-ki called on HA to comprehensively review the HA Drug Formulary ("the Formulary") which had been put in place since 2005. In particular, HA should engage patient groups and relevant professionals outside HA in managing the Formulary. Referring to the criticisms of the Director of Audit on various areas of drug management of HA, Dr Pierre CHAN asked when HA would conduct a review of the management of the Formulary. Expressing concern that many drugs of proven clinical benefits were currently not listed as General drugs, Special drugs or self-financed drugs with safety net, Dr Fernando CHEUNG and Mr KWONG Chun-yu urged HA to conduct a review of the principles underlying the development of the Formulary.

10. Director (Cluster Services), HA ("D(CS), HA") advised that the drug management system of HA and the Formulary had been constantly reviewed. The development of the Formulary was underpinned by the core

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values of evidence-based medical practice, rational use of public resources, targeted subsidy, opportunity cost consideration and facilitation of patients' choice. To enhance the transparency of the Formulary, HA had published a Hospital Authority Drug Formulary Management Manual in 2015 to give an account of the governance structure as well as the principles and operational procedures for managing the Formulary. In response to the recommendations put forth in the Audit Report, HA had drawn up an action plan as set out in Annex II to the Administration's paper for implementation in phases within a year. HA also welcomed members' suggestions to continuously improve the drug management system of HA. USFH assured members that views of external stakeholders, including patient groups and relevant professionals, had been and would continuously be collected in managing the Formulary.

11. Dr KWOK Ka-ki urged HA to implement the action plans as early as practicable to improve patient care. Dr Pierre CHAN asked whether any internal investigation had been conducted on the management of HA who should be held responsible for the mismanagement. D(CS), HA responded that the focus of audit was aimed at help enhancing the performance of HA in drug management in the areas identified in the Audit Report. No such investigation was required.

Expensive drugs

12. Dr KWOK Ka-ki called on HA to include more target therapy drugs for treating cancers and drugs for treating rare diseases (such as Eculizumab for PNH patients), which were usually very expensive, in the Formulary. Ms Alice MAK was concerned about the drug treatments for patients with PNH and psoriasis. Mr Jeremy TAM expressed concern about the financial burden brought about by the self-financed target therapy drugs without safety net on cancer patients and the drug treatment for patients with PNH. For the former, he considered that HA should provide financial assistance to those patients who could meet part but not all of the drug expenses. Dr Fernando CHEUNG was concerned that HA currently only provided ultra-expensive drug treatments for six types of lysosomol storage disorders (namely, Pompe, Gaucher, Fabry and Mucopolysaccharidosis Types I, II and VI) to individual patients at standard fees and charges.

13. D(CS), HA explained that drug treatments for uncommon disorders could be extremely expensive and could amounted to as high as $4 million a year. HA had been actively liaising with the drug suppliers with a view to formulating a sustainable financial arrangement to support the patients concerned. A mechanism was in place for HA to provide the ultra-expensive drug treatments for individual patients (including PNH patients) at standard fees and charges in emergency situations. Mr CHAN Han-pan

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and Mr KWONG Chun-yu enquired about the progress of HA's liaison with the drug supplier about the procurement of Eculizumab for PNH patients. D(CS), HA advised that it was expected that HA would enter into a contractual agreement with the drug supplier concerned within the next few months. At the request of the Chairman, D(CS), HA agreed to update the Panel in writing on its progress of liaison with the drug supplier on the arrangement to provide Eculizumab for PNH patients.

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14. D(CS), HA further advised that cancer drugs which had proven to be of significant clinical benefits but were extremely expensive for HA to provide as part of its standard services would be positioned as self-financed drugs with the safety net of Samaritan Fund, which provided financial assistance to needy patients who met the specified clinical criteria and passed the means test to meet the drug expenses. This apart, the Community Care Fund ("CCF") Medical Assistance Programme currently provided financial assistance to HA patients to purchase specified self-financed cancer drugs which had not yet been brought into the Samaritan Fund but had been rapidly accumulating medical scientific evidence with relatively higher efficacy. As regards psoriasis patients, most of them were under the care of the specialist dermatology services of the Department of Health ("DH"). Serious psoriasis patients would be referred by DH to designated public hospitals for assessment and treatment. Under the Formulary, drugs for treating psoriasis were currently classified as self-financed drugs covered by Samaritan Fund.

15. Dr Fernando CHEUNG remarked that the number of self-financed drugs currently covered under the Samaritan Fund and CCF was far from adequate to meet the needs of patients in need of expensive drug treatments. Mr KWONG Chun-yu asked whether HA had conducted any analysis on the types of diseases which required expensive drug treatments not being covered by the Samaritan Fund. D(CS), HA advised that the coverage of the Formulary was driven by service needs. Hence, all applications for new drug listing would be initiated by HA clinicians and submitted to the Drug Advisory Committee for consideration via the Cluster or Hospital Drug and Therapeutics Committee. Drugs which had proven to be of significant clinical benefits but were extremely expensive for HA to provide as part of its standard services would be positioned as self-financed drugs with safety net. For those ultra-expensive drugs for uncommon disorders, HA would liaise with the drug suppliers with a view to mapping out the way forward for providing sustainable drug treatments for patients with these diseases.

16. Dr KWOK Ka-ki considered that HA should conduct a review on the use of the extremely expensive drugs for treating cancers and rare diseases. D(CS), HA responded that HA would take steps to formulate within a year a proposed mechanism on the provision of ultra-expensive drug treatments to

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patients. Dr Pierre CHAN expressed concern that there was currently no control on the price setting of drug suppliers of ultra-expensive drugs.

17. Mr POON Siu-ping noted from Table 19 of the Audit Report that 25 000 self-financed drug items with safety net and 589 000 self-financed drug items without safety net were prescribed to outpatients of HA in 2014-2015. He was concerned that the number of the latter far outnumbered the former. D(CS), HA explained that the latter included drugs with preliminary medical evidence only, drugs with marginal benefits over available alternatives but at significantly higher cost, and lifestyle drugs. Patients who chose to use these drugs had to purchase them at their own expense.

[At this juncture, the Chairman suggested and members agreed that the meeting be extended for 30 minutes beyond its appointed time.]

18. Mr SHIU Ka-fai noted from paragraph 13 of the Executive Summary of the Audit Report that during the period of 2010-2011 to 2015-2016, HA had conducted sample checks on 1 369 approved financial assistance cases for purchasing self-financed drugs under the Samaritan Fund and CCF. He was concerned that under-reporting of income and/or assets had been found in 591 cases (i.e. 43%), involving overpayments of $5.4 million subsidies. D(CS), HA advised that for cases involving overpayment of subsidy, HA would take actions to recover the overpaid amounts and report suspected fraud cases to the police for investigation. HA had enhanced patient education in this regard in order to safeguard proper use of public funds. It should be noted that among the cases of post-approval checks, there was a decreasing trend of under-reporting cases with overpayment of subsidy from 27% in 2010-2011 to 1% in 2015-2016.

19. Mr CHAN Han-pan asked whether HA would consider developing a territory-wide database for rare diseases and providing prenatal DNA tests for pregnant women for detecting uncommon disorders of fetus, both of which had long been called for. D(CS), HA advised that HA had joined hands with DH to launch in two public birthing hospitals a Pilot Study of Newborn Screening for Inborn Errors of Metabolism ("IEM"). It was expected that the Government would regularize the IEM screening service for newborns in the two public birthing hospitals after completion of the Pilot Study and extend the screening service to cover other public birthing hospitals in phases in the future.

Hospital drug formularies

20. Ms Alice MAK was of the view that HA's expenditure on drugs, which stood at $5,710 million in 2015-2016 (i.e. about 10% of HA's total expenditure), was low when compared to that of other developed countries.

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To her understanding, the cost and budget control measures adopted by individual public hospitals had affected doctors' prescription decisions in some cases. Dr Helena WONG asked whether HA had set a prescribed proportion of its total expenditure for expenditure on drugs. The Chairman expressed concern as to whether the difference in the resources allocated to individual public hospitals would affect the selection of drugs for listing on the hospital drug formularies. D(CS), HA advised that HA would ensure that doctors would have adequate drug options for the same indication under the Formulary. If there were a number of agents with similar efficacy for the same indication, doctors would give due regard to, among others, the cost-effectiveness of the drugs in prescribing drug treatments for patients according to their clinical conditions. Drugs having significant budget impacts on HA would be addressed through the annual planning process with a view to soliciting additional funding allocation from the Government to list the new drugs on the Formulary.

21. Dr Pierre CHAN pointed out that, as the Director of Audit observed, the drug formularies of the medium-sized public hospitals were different from that of the leading hospitals. Mr WU Chi-wai expressed concern as to whether apart from the above, the drug formularies of public hospitals were different from that of public outpatient clinics. D(CS), HA advised that there were currently about 1 300 drugs listed on the Formulary. Given that some of these drugs would have different therapeutic indications or dose presentations, there were around 3 900 drug items in the Formulary. Public hospitals and outpatient clinics differed in their scope of service to cater for the clinical needs of the catchment district. Hence, different hospitals and outpatient clinics would stock different drugs on the Formulary according to their respective service needs. For instance, the local drug formularies of those public hospitals which provided tertiary and quaternary level services comprised 1 000-plus drugs, whereas those of the medium-sized public hospitals and the outpatients clinics comprised around 800 and 400 drugs respectively. Mr WU Chi-wai requested HA to provide in writing on how individual public hospitals and outpatient clinics would formulate their local drug formularies according to the clinical needs of their patients; and the differences in the local drug formularies of different public hospitals and outpatient clinics for treating patients with common chronic diseases such as diabetes mellitus and hypertension.

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Use of drugs not listed on the Formulary

22. Dr Helena WONG noted that HA had incurred an expenditure of $249 million on non-Formulary drugs in 2015-2016. She asked whether and, if so, when these drugs would be incorporated into the Formulary. D(CS), HA explained that the use of non-Formulary drugs was to cater for the clinical needs of individual patients in exceptional situations. It should

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be noted that some of these drugs were not registered in Hong Kong but were required for use on certain named patients as recommended by the prescribing doctors concerned on a case-by-case basis. Given that the use of most of these non-Formulary drugs was an integral part of medical care, 96.5% of these drug prescriptions were provided by HA as part of its standard services in 2015-2016.

Drug wastage problem

23. Dr KWOK Ka-ki expressed concern that the increasing demand and the long waiting time for public specialist outpatient services had brought about long-duration prescriptions and, hence, given rise to drug wastage. Ms YUNG Hoi-yan asked whether HA would adopt the suggestions of the Hong Kong Pharmacists Union to shorten the average prescription length for specialist outpatients from about the current level of 84 days to 30 days, and engage community pharmacies to help refilling the prescribed drug items as the case of Macau. USFH advised that to help estimate and reduce the extent of drug wastage and improve patient care, HA would roll out drug refill services on a pilot basis for target patients so as to split long-duration prescriptions and provide drug counselling for these patients between refills to improve patient care.

24. Pointing out that patients having long-duration prescriptions were mostly patients with chronic diseases with stable conditions, Mr WU Chi-wai urged HA to exercise due care in implementing the drug refill services such that it would only cover those patients who were required and willing to receive frequent drug counselling services. Mr CHAN Chi-chuen held the view that since doctors would exercise their professional judgements on the timing of the follow-up consultations and the duration of prescriptions, the drug refill services should not be applied to all patients across the board to avoid causing inconvenience to chronic patients with stable conditions and creating additional workload to pharmacies of public hospitals and outpatient clinics. Dr Pierre CHAN remarked that many elderly patients would prefer long-duration prescriptions to reduce the need to travel to public hospitals or outpatient clinics frequently.

25. D(CS), HA explained that in many cases, drug wastage was caused by changes in the clinical conditions of the patients concerned that lead to changes in the drug prescription before the originally scheduled follow-up consultations. HA would pilot the implementation of the drug refill services in selected public specialist outpatient clinics in a year's time, targeting at those patients with multiple drug prescriptions who were exposed to higher medication risks. HA would first assess the acceptability of the proposed measure to avoid creating inconvenience to these patients.

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HA would review the pilot scheme in two years' time to decide the way forward. Separately, it would consider engaging community pharmacies in this regard at an opportune time.

26. Dr KWOK Ka-ki and Ms YUNG Hoi-yan asked whether HA would consider collecting from its patients the unused dispensed drugs to reduce the extent of drug wastage. D(CS), HA advised that to ensure drug quality, HA would not reuse any unused dispensed drugs as it was not known whether the drugs concerned had been stored according to the prescribed requirements on temperature, humidity, etc.

Handling of dangerous drugs

27. Ms YUNG Hoi-yan noted from paragraph 4.15 of the Audit Report that out of the 32 incidents of missing dangerous drugs occurred in HA during 2011-2012 to 2015-2016, the direct causes of 27 incidents (i.e. 84%) could not be identified under the investigations conducted by the hospitals concerned. She was concerned about whether there was any loophole in the system of HA for the safe custody of dangerous drugs. Ms Alice MAK asked whether the problem was caused by the out-dated drug inventory monitoring system of HA.

28. D(CS), HA advised that HA had put in place guidelines on the proper handling, safe custody, record keeping and disposal of dangerous drugs. In view of the increasing number of missing dangerous drug incidents whereby the direct causes could not be identified, HA would develop a template to guide the investigation of such incidents. That said, the quantity of the missing drugs in these incidents was of a very small amount and were mostly lost during transmission or mistakenly discarded by staff.

Monitoring the quality of drugs

29. Mr SHIU Ka-fai sought explanation as to the reason why it took as long as six months for HA to complete investigation on some complaint cases related to drug quality in 2015-2016 as set out in paragraph 11 of the Audit Report. He was concerned that drugs of sub-standard quality might affect patients' health. D(CS), HA explained that some investigations took a longer time to complete as some of these cases involved logistics for returning samples to overseas manufacturers. It should be noted that many complaints were not related to the quality of the drugs but other issues such as packages of drugs. He assured members that HA would take immediate actions if there were any suspected cases involving drugs not meeting the required quality requirements of HA.

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Way forward

30. In view of members' concerns on the policy on and drug treatments for rare diseases, the Chairman suggested and members agreed that the subject be discussed at the regular meeting of the Panel in February 2017. To facilitate members' discussion on the subject, the Research Office of the LegCo Secretariat would prepare an information note on the policy on rare diseases in selected places.

(*Post-meeting note*: At the suggestion of the Administration, the Panel agreed at the meeting on 16 January 2017 that discussion of the above subject be deferred to March 2017.)

IV. Proposal to amend the health warnings on packets and retail containers of tobacco products

[LC Paper Nos. CB(2)223/16-17(01), CB(2)272/16-17(01), CB(2)386/16-17(05) to (07), CB(2)411/16-17(01), CB(2)425/16-17(01), CB(2)453/16-17(01), CB(2)460/16-17(01) to (02) and CB(2)467/16-17(01)]

31. Members noted the following papers on the subject under discussion:

(a) the Administration's paper entitled "Proposal to amend health warnings on tobacco product packets and retail containers" (LC Paper No. CB(2)386/16-17(05));

(b) the background brief entitled "Proposals to amend the health warnings on packets and retail containers of tobacco products" prepared by the LegCo Secretariat (LC Paper No. CB(2)386/16-17(06));

(c) two letters dated 18 and 28 November 2016 from Mr SHIU Ka-fai and Ms Alice MAK respectively requesting the Panel to discuss the legislative proposals (LC Paper Nos. CB(2)223/16-17(01) and CB(2)272/16-17(01));

(d) the respective submissions from Coalition On Tobacco Affairs Limited; British American Tobacco Company (Hong Kong) Limited; Nan Yang Brothers Tobacco Co., Ltd.; SUTL Corporation (Hong Kong) Ltd; four cigar companies; and Hong Kong Council on Smoking and Health (LC Paper Nos. CB(2)386/16-17(07), CB(2)425/16-17(01), CB(2)460/16-17(02), CB(2)467/16-17(01), CB(2)411/16-17(01) and CB(2)460/16-17(01)); and

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(e) a referral from the Public Complaints Office of LegCo on the impacts of the Administration's proposal to amend the health warnings on cigarette packets on operators of newspaper stalls (LC Paper No. CB(2)453/16-17(01)).

Tobacco control policy

32. Given that smoking was not totally banned in Hong Kong, Mr SHIU Ka-fai considered it not appropriate for the Administration to impose stringent regulatory control on smoking consumption such as significantly increasing tobacco duty over the years. Mr WONG Ting-kwong remarked that the Administration's stringent tobacco control policy had imposed increasing pressure on the tobacco industry and affected the livelihood of the workforce associated with the industry. In his view, the Administration should strike a proper balance between the interest of tobacco industry and the need to protect public health. Mr LEUNG Kwok-hung and Mr CHAN Chi-chuen expressed dissatisfaction that while researches had revealed that alcohol consumption would also give rise to adverse health effects and induce social cost, the Administration introduced more stringent regulatory measures for tobacco consumption. Mr LEUNG Kwok-hung called on the Administration to strengthen its smoking cessation services which, in his view, was a more effective tobacco control measure.

33. Pointing out that tobacco consumption was the main cause of various chronic diseases, Dr Pierre CHAN expressed support for the tobacco control policy in order to safeguard public health. While expressing support for tobacco control, Dr KWOK Ka-ki considered that efforts to control tobacco consumption could not rely on increasing the size of graphic health warning alone. In his view, the revenue generated by tobacco duty should be fully ploughed back to the enhancement of the tobacco control measures, such as increasing the manpower of the Tobacco Control Office ("TCO"), so as to enhance their effectiveness in protecting public health.

34. USFH advised that the Government's tobacco control policy sought to safeguard public health by discouraging smoking, containing the proliferation of tobacco use and minimizing the impact of passive smoking on the public through a multi-pronged approach comprising legislation, education, provision of smoking cessation services, taxation, etc. The Administration would allocate additional resources for strengthening the tobacco control activities with a view to lowering smoking prevalence in Hong Kong (which stood at 10.5% in 2015) to single digit in the longer term. Dr Helena WONG said that the Democratic Party was supportive of tobacco control. However, she cast doubt as to whether any tightening of

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regulation on smoking consumption could further lower the already very low smoking prevalence in Hong Kong, as some smokers would choose not to quit smoking.

35. Dr Junius HO considered that following the implementation of the extended statutory smoking ban to over most indoor working places and public places, there was an apparent rise in smoking prevalence among the youth and the females. He was concerned about the effectiveness of TCO in enforcing the indoor smoking ban, in particular in food premises. USFH advised that the percentage of females being daily cigarette smokers was 3.2% in 2015. Head (TCO), DH ("H(TCO), DH") advised that TCO had conducted around 29 000 inspections and issued around 8 000 fixed penalty notices in 2015. At the request of Dr Junius HO, the Administration undertook to provide in writing information on the smoking prevalence trend of the population age group of 15 to 30 in the past decade; and the number of fixed penalty notices and summons issued by TCO for the offence of smoking in statutory indoor no-smoking areas.

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Portion of the health warnings

36. Mr SHIU Ka-fai was concerned about the Administration's proposal of increasing the area of the graphic health warning from covering at least 50% to at least 85% of the two largest surfaces of the packet or the retail container of the tobacco product concerned. He noted that the tobacco control policy-related survey conducted by the Hong Kong Council on Smoking and Health in collaboration with the School of Public Health of The University of Hong Kong in 2015 had only gauged the views of members of the public on, among others, enlarging the size of health warnings to cover up to 75% of cigarette packets. Internationally, the proposed portion far exceeded that of other places such as the European Union (65%), South Korea and Singapore (50%), Taiwan (35%) and Japan (30%). It was noted that the United States did not have any requirement in this regard. Dr Pierre CHAN remarked that, as pointed out by the tobacco industry, the Administration had not provided strong supporting evidence to justify its proposal. Dr Helena WONG noted with concern that the circumstances in Thailand, which increased the size of health warnings to 85% of both sides of a cigarette package in 2014, were different from Hong Kong in the context that its smoking prevalence rate was about 20% in 2013. While expressing support to tobacco control, Dr Junius HO considered that the proposed increase was too drastic without justifications. He noted that at present, the 85% requirement was implemented in only three countries.

37. USFH advised that plain packaging had been advocated by the World Health Organization ("WHO") in recent years, and had been or

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would soon be implemented in various developed countries including Australia, France, Ireland, New Zealand and the United Kingdom. The current proposal of increasing the area of the graphic health warning to a size that covered at least 85% of the two largest surfaces of the packet or the retail container was moderate and appropriate for the local context, and was in line with the Government's progressive and multi-pronged tobacco control strategy. It was worthy to note that in some countries whereby the health warning was of a required size of less than 85%, they had implemented other measures to regulate display of tobacco products, such as introducing a ban of point-of-sale tobacco display, which prohibited retailers from displaying cigarette packets in retail shops that shopkeepers could only take out the required cigarette packs from a covered area upon request of customers. The Administration had cited the case of Thailand in its paper as the requirement on health warning adopted by Thailand was similar to that proposed by the Administration.

38. Mr SHIU Ka-fai cast doubt on the effectiveness of increasing the size of graphic health warnings in reducing smoking prevalence. He noted from Annex E to the Administration's paper that while Thailand had increased the size of health warnings to 85% of both sides of a cigarette package since 2014, smoking prevalence rate in Thailand had increased from 16.6% in 2013 to 17% in 2015. The Administration had also referred to the smoking prevalence rate in the United Kingdom for the period of 2010 to 2014, which was before the introduction of the plain packaging requirement in the United Kingdom in 2016. While the Administration had stated in Annex C to its paper that the introduction of plain packaging together with larger and new health warnings in Australia had reduced the smoking prevalence of around 0.55 percentage points between December 2012 and September 2015, there was no mention about the increases in tobacco duty during the above period. Dr Helena WONG did not see a pressing need for the Administration to pursue the proposal, as smoking prevalence in Hong Kong was low when compared to other Asian countries and the effectiveness of the proposal in reducing smoking prevalence in Hong Kong to a single digit figure was in doubt. She considered that the Administration should instead allocate more resources to other tobacco control measures, such as promoting smoking cessation. Mr CHAN Chi-chuen considered that there was limited room for further reduction of the already very low smoking prevalence rate in Hong Kong under the proposal.

39. USFH responded that, as explained in the Administration's paper, international researches had revealed that large graphic health warnings could reduce the attractiveness of smoking, increase quit intention and attempts, and deter youth from smoking. For the case of Thailand, two studies were conducted by the Thai Government after the introduction of

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the 85% graphic health warning requirement in Thailand, with one of which showed a decrease in smoking prevalence and the other showed a slight increase followed by a slight decrease in the prevalence of smoking thereafter. Dr Pierre CHAN said that he agreed with the view of the tobacco industry that the Administration had adopted a selective approach in making reference to overseas practice and statistics on hand, and considered it absurd for the Administration to make reference to the case of Thailand in its paper. Mr CHAN Chi-chuen remarked that apart from smoking prevalence, the effectiveness of increasing the portion of graphic health warnings should be assessed by making reference to the sales volume of the tobacco products concerned and the daily number of cigarettes consumed by smokers.

40. Dr Helena WONG remained of the view that the Administration should shelve the proposal at this stage, and might consider introducing plain packaging in the future as and when appropriate. Dr KWOK Ka-ki enquired about the ways to display the trademarks and brand names on the packets of cigarettes or other tobacco products under plain packaging, and the timetable of the Administration to introduce plain packaging in Hong Kong. USFH advised that under plain packaging, the use of logos, colours, brand images or promotional information on packaging would be restricted or prohibited. Brand names and product names would be required to be displayed in a standard colour and font style. The Administration would review the effectiveness of the proposed new requirement on health warning and make reference to the international trend in regulation of tobacco product packaging and display when considering the way forward.

Practical implementation issues arising from the legislative proposals

41. Mr SHIU Ka-fai expressed dissatisfaction that while the Administration had been requested at the meeting of the Panel on 16 July 2015 to communicate with the tobacco industry and the relevant stakeholders on their concerns over the legislative proposals, it was not until November 2016 that the Administration had held a briefing to explain to, but not discuss with, the tobacco industry on the technical issues relating to the implementation of the legislative proposals. In addition, the Administration failed to communicate with other stakeholders, such as the newspaper hawkers and retail shops selling cigarettes, on the legislative proposals. He relayed the concern of the cigar industry that under the legislative proposals, authenticity seals of the cigar products would be covered by the enlarged graphic health warnings. This would intensify the trade of counterfeit cigar products. The Administration also had not given heed to the suggestion of the trade to allow the seal of soft pack cigarette packets to overlay the area of the graphic health warning, as was the practice adopted in Thailand.

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42. Ms Alice MAK held the view that the WHO Framework Convention on Tobacco Control only obliged Parties to protect public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry. However, it did not prohibit the Administration to communicate with the tobacco industry on the aforesaid practical implementation issues arising from the legislative proposals. Pointing out that the tobacco industry was willing to work with the Administration under the principle of tobacco control, Mr WONG Ting-kwong asked why the Administration could not take heed of the operational concerns raised by the tobacco industry regarding the sealing for soft pack cigarette packets, and the difficulty for affixing the authentic seals on retail containers of cigar, which was catered for a niche market, under the legislative proposals. Dr Pierre CHAN urged the Administration to address the industry's concern that some of the proposed requirements were technically impracticable. Mr LEUNG Kwok-hung and Mr CHAN Chi-chuen were concerned that the proposed 85% requirement would make the branding of tobacco products unidentifiable.

[At this juncture, the Chairman proposed and members agreed that the motion proposed by Mr SHIU Ka-fai, which was directly related to the agenda item under discussion and the wording of which had been tabled at the meeting, be dealt with towards the end of the discussion of this agenda item.]

43. USFH advised that the Administration noted that a majority of the deputations attending the Panel meeting on 16 July 2015 was in support of the legislative proposals to amend the health warning on packets and retail containers of tobacco products. Subsequently, it had issued a letter to the tobacco trade in May 2016 inviting views on the detailed specifications of the legislative proposals. A briefing was then held on 23 November 2016 to explain to the trade the technical issues relating to the implementation of the legislative proposals. The trade could continue to communicate with TCO about the technical issues arising from the legislative proposals.

44. Referring to the concern of the cigar industry, H(TCO), DH advised that trademarks and brand names of the cigar products could be displayed at the remaining 15% of the two largest surfaces, and space available on other sides, of the retail containers. As regards issues relating to seals for soft pack cigarette packets, USFH advised that it was provided for under the Smoking (Public Health) (Notices) Order (Cap. 371B) that no health warning and indication of tar and nicotine yields should appear in such a manner that it was obscured by any affixture to the packet or retail container, the wrapping of the packet or retail container or any affixture to the wrapping of the packet or retail container. Holding the view that an alternative was for the manufacturers concerned to use transparent seals in

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order to avoid obscuring the health warnings on the packets, Mr WONG Ting-kwong sought clarification from the Administration as to whether there were any specific requirements in the existing legislation concerning the seals for soft pack cigarette packets. USFH replied in the negative.

45. Mr SHIU Ka-fai considered that the Panel should further discuss the subject and receive views from deputations on the legislative proposals. Noting that the Panel had already received oral representations from 100 deputations on the legislative proposals on 16 July 2015, Dr Pierre CHAN did not consider it necessary for the Panel to hold another meeting for the same purpose.

Design of the health warnings

46. Dr KWOK Ka-ki suggested that the graphic design of the health warnings should be localized to enhance deterrence. In addition, the Administration could consider incorporating into the health warnings messages on the death rate and public health expenditure caused by tobacco consumption. Dr Junius HO suggested that the tobacco industry should be allowed to carry out the design work of some graphic health warnings. USFH advised that the existing batch of health warning pictures had been in use since 2007. Hence, the Administration considered it high time to change the prescribed forms of health warnings to enhance public awareness on the health risk of smoking. Focus group interviews had been conducted to gauge the views of smokers and non-smokers on the design of the health warning pictures. The Administration would provide soft copy of the graphic files of the new health warnings to the trade.

Indication of tar and nicotine yield

47. Ms Alice MAK noted that indication of tar and nicotine yields would continue to be required to appear on the packet and retail container of cigarette and relevant tobacco products. She noted that according to the guidelines published by WHO for implementing Article 11 of FCTC, Parties should not require, among others, quantitative statements on tobacco product packaging and labelling about tobacco constituents and emissions that might imply that one brand was less harmful than another, such as the tar, nicotine and carbon monoxide figures. She considered that the Administration should follow the guidelines of WHO in this regard.

48. H(TCO), DH advised that the indication of tar and nicotine yields would help to remind smokers that smoking was hazardous to health. Ms Alice MAK remarked that it was unpersuasive that the Administration acted against WHO's guidelines to not to display of tar and nicotine content,

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but at the same time purported to base on the advocacy of WHO to enlarge the portion of graphic health warnings on the packet or the retail container of the tobacco products.

Adaptation period

49. Ms Alice MAK asked whether the Administration could consider extending the proposed adaptation period from six months to 12 or 18 months after the day on which the relevant provisions came into operation for the trade to redesign and reprint the packaging of their products for compliance with the proposed new requirements, deliver the products from overseas manufacturers to Hong Kong, and deplete existing stock.

50. USFH explained that a 12-month adaptation period was provided for in the last legislative exercise as the tobacco industry had to comply with a brand new requirement that packets or retail containers of tobacco products had to bear a health warning, the size of which was required to cover at least 50% of the area of the two largest surfaces. It was considered that the amount of work involved by the tobacco industry in this legislative exercise would be less. That said, in the light of the concerns raised by the industry, the Administration would consider extending the adaptation period.

Motion

51. Mr SHIU Ka-fai proposed to move the following motion:

"由於政府當局未有正視上屆立法會衞生事務委員會委員的要求，就有關煙草產品封包及零售盛器上健康忠告的修例建議與煙草業界和相關持份者溝通，本委員會現要求政府當局暫停相關的修例計劃，重新先與所有持份者充分溝通，商討實際可行方案後，再向本委員會匯報。"

(Translation)

"That given the Administration's failure to face squarely the request made by members of the Panel on Health Services of the last legislative term for communicating with the tobacco trade and the relevant stakeholders in respect of the legislative proposal to amend the health warnings on packets and retail containers of tobacco products, this Panel requests the Administration to shelve the plan of introducing the relevant legislative amendments, and prior to reporting to this Panel again, discuss and communicate afresh with all stakeholders for a practical and feasible proposal."

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52. As the meeting was near the extended closing time, the Chairman sought members' views on whether the motion proposed to be moved by Mr SHIU Ka-fai should be dealt with at this meeting. After deliberation, members present agreed that the motion be dealt with at the meeting to be scheduled for further discussing, and receiving views from deputations on, the matter under the agenda item to which it related.

(*Post-meeting note:* With the concurrence of the Chairman, the meeting for, among others, receiving views from deputations on the subject has been scheduled for 17 January 2017 at 2:00 pm. On 10 January 2017, Mr Shiu Ka-fai informed the Clerk that he would withdraw the motion he had proposed.)

V. Development of the stage two Electronic Health Record Programme

[LC Paper Nos. CB(2)386/16-17(08) and (09)]

53. In view of the time constraint, members agreed that the discussion of this agenda item be deferred to the next regular meeting in January 2017. Dr Pierre CHAN considered it undesirable for the Panel to consider a vast number of agenda items in one meeting. He urged the Chairman to work with the Administration on the items scheduled for discussion at the next regular meeting to enable a thorough discussion on each agenda item.

VI. Any other business

54. There being no other business, the meeting ended at 7:02 pm.

Council Business Division 2
Legislative Council Secretariat
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