

LEGISLATIVE COUNCIL BRIEF

Private Healthcare Facilities Ordinance
(Cap. 633)

NOTICES ON COMMENCEMENT DATE AND AMENDMENT TO SCHEDULE 3 UNDER THE PRIVATE HEALTHCARE FACILITIES ORDINANCE

INTRODUCTION

For the implementation of the Private Healthcare Facilities Ordinance (Cap. 633) (“the Ordinance”), the Secretary for Food and Health (“the Secretary”) has made notices to –

- (a) provide for the commencement date for the penalty provisions under the Ordinance pertaining to the operation of a day procedure centre (“DPC”) without a licence; and
- (b) amend Schedule 3 to the Ordinance to put the meaning of “major plexus block” beyond doubt.

JUSTIFICATIONS

2. The Private Healthcare Facilities Bill was passed by the Legislative Council (“LegCo”) on 15 November 2018, and the Ordinance was subsequently gazetted on 30 November 2018. The Ordinance primarily provides for a new regulatory regime for premises where registered medical practitioners and registered dentists practise, including hospitals, DPCs, clinics and health services establishments. Operators of these facilities are required to obtain relevant licences or exemption for operating the facilities. The Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) was replaced by the Ordinance and repealed on 1 January 2021¹ while

¹ The Private Healthcare Facilities Ordinance (Commencement) Notice 2019 has specified 1 January 2021 as the date on which Division 1 of Part 12 of the Ordinance, which provides for the repeal of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), comes into operation.

the Medical Clinics Ordinance (Cap. 343) currently in force will be replaced by the Ordinance and repealed² in due course.

3. The Department of Health (“DH”) is implementing the Ordinance in phases according to the risk levels of different types of private healthcare facilities (“PHFs”). DH has been accepting applications for hospital and DPC licences since July 2019 and January 2020 respectively. All hospital licences and the first batch of DPC licences have already come into effect from 1 January 2021.

Commencement of Penalty Provisions Pertaining to the Operation of DPC Without Licence

4. As at 30 June 2021, there were 211 licensed DPCs in Hong Kong (including 178 DPCs with provisional licences³ and 33 DPCs with full licences) and 43 applications for full licences were being processed. Given the implementation progress, it is expected that by mid-2022, all DPCs in operation which satisfy the licensing requirements would be either holding a provisional or full licence under the Ordinance.

5. Section 10 of the Ordinance provides for the prohibition on operating a PHF without a licence. Subsections (1) (in so far as it relates to a PHF that is a hospital) and (3)(a) commenced on 1 January 2021⁴ to tie in with the replacement of Cap. 165 by the Ordinance. Given the aforementioned implementation progress for DPCs, we consider it opportune to commence the penalty provisions regarding operation of DPCs without licences so as to safeguard public health. The relevant provisions will commence on 30 June 2022, after which it would be illegal to operate a DPC without a licence.

6. Announcement will be made at least six months prior to the target commencement date to allow sufficient time for the trade to prepare for the regulation. Further announcement will be made about two months prior to the commencement date to remind all stakeholders again about the commencement.

² See section 149 of the Ordinance.

³ Operators of DPCs which were in operation on 30 November 2018 were allowed to apply to the Director of Health for a provisional licence under section 135(2) of the Ordinance. The application period ended on 30 April 2020. The provisional licence allows a DPC to continue to operate during the transitional period under the new regulatory regime before being qualified for a full licence.

⁴ The Private Healthcare Facilities Ordinance (Commencement) Notice 2019 has specified 1 January 2021 as the date on which section 10(1) (in so far as it relates to a PHF that is a hospital) and (3)(a) comes into operation.

Amendment to Schedule 3 to the Ordinance

7. Schedule 3 to the Ordinance prescribes scheduled medical procedures which can only be performed in hospitals or DPCs. Currently, major plexus block (including brachial, lumbar and sacral) is a scheduled medical procedure⁵ under the class of Anaesthetic procedure in Schedule 3. Where major plexus block is performed in non-hospital premises, the PHF providing the service should be licensed as a DPC, and the relevant standards and requirements stipulated in the *Code of Practice for DPCs* issued under section 102 of the Ordinance⁶ should be observed.

8. Cervical plexus block may be used to provide anaesthesia and/or analgesia in various head and neck surgeries. While cervical plexus block is a type of major plexus block, it was omitted in the brackets following the term “major plexus block” which list out the types of block that may be covered under the term. The Project Steering Committee on Standards for Ambulatory Facilities⁷ considers that apart from brachial, lumbar and sacral, major plexus block may also cover cervical plexus block.

9. The current amendment to include “cervical” in the brackets following the term “major plexus block” as a particular medical procedure in Column 2 of Schedule 3 under Anaesthetic procedure will put the meaning of “major plexus block” beyond doubt, and it follows that non-hospital premises providing cervical plexus block service are required to obtain a DPC licence under the Ordinance. The amendment will come into effect on 1 January 2022.

⁵ Under section 2 of the Ordinance, a scheduled medical procedure means a medical procedure – (a) that is described in column 2 of Schedule 3; (b) that is not a medical procedure described in column 3 of Schedule 3; and (c) that is carried out in an ambulatory setting.

⁶ Under section 102 of the Ordinance, the Director of Health may issue a code of practice about (a) the equipment, fittings and furnishings in PHFs; (b) the management and staffing arrangement of PHFs; (c) the quality of care for, and the safety of, patients in PHFs; and (d) any other matters for protecting the health and interests of individuals receiving healthcare services in PHFs.

⁷ The Project Steering Committee on Standards for Ambulatory Facilities was set up by DH and the Hong Kong Academy of Medicine in mid-2015, so as to draw up standards for DPCs and to give advice on the standards for clinics under the current regulatory regime. The functions of the Project Steering Committee have been taken up by the Advisory Committee for Regulatory Standards for Private Healthcare Facilities set up under section 99 of the Ordinance in September 2020.

THE NOTICES

10. To give effect to the arrangements mentioned in paragraphs 4 to 9 above, the Secretary has made the following Notices –

Notice	Purpose
Private Healthcare Facilities Ordinance (Commencement) Notice 2021 (at Annex A)	To commence the penalty provisions regarding operation of DPCs without licences so as to safeguard public health
Private Healthcare Facilities Ordinance (Amendment of Schedule 3) Notice 2021 (at Annex B)	To put the meaning of “major plexus block” beyond doubt

11. Separate subsidiary legislation would be made at a later stage in relation to the commencement of the regulatory regimes for clinics and health services establishments, as well as a number of related penalty provisions, etc.⁸

LEGISLATIVE TIMETABLE

12. The legislative timetable will be –

Publication in the Gazette	13 August 2021
Tabling at LegCo	18 August 2021

ENQUIRY

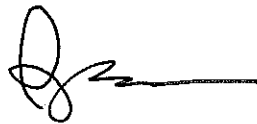
13. Enquiries on this brief may be directed to Ms Lily Lee, Principal Assistant Secretary (Health), Food and Health Bureau, at 3509 8929.

Food and Health Bureau August 2021

⁸ Under the phased implementation plan, the regulatory regime for clinics and health services establishments will commence at a later stage. Taking into account the current manpower situation of DH, particularly the need for redeploying staff for COVID-19 related duties, we expect that the applications for clinic licences and request for letters of exemption would commence in 2023 at the earliest.

**Private Healthcare Facilities Ordinance
(Commencement) Notice 2021**

Under section 1(2) of the Private Healthcare Facilities Ordinance (Cap. 633), I appoint 30 June 2022 as the day on which section 10(1) (in so far as it relates to a private healthcare facility that is a day procedure centre) and (3)(b) of the Ordinance comes into operation.



Secretary for Food and Health

9 August 2021

Private Healthcare Facilities Ordinance (Amendment of Schedule 3) Notice 2021

(Made by the Secretary for Food and Health under section 123 of the Private Healthcare Facilities Ordinance (Cap. 633))

1. Commencement

This Notice comes into operation on 1 January 2022.

2. Private Healthcare Facilities Ordinance amended

The Private Healthcare Facilities Ordinance (Cap. 633) is amended as set out in section 3.

3. Schedule 3 amended (classes of specialized services)

Schedule 3, item 7, column 2, paragraph (c), before “brachial”—

Add

“cervical.”



Secretary for Food and Health

9 August 2021

Explanatory Note

Schedule 3 to the Private Healthcare Facilities Ordinance (Cap. 633) sets out different classes of specialized services and the medical procedures corresponding to those classes for determining whether a medical procedure is a scheduled medical procedure for the purposes of a day procedure centre.

- 2. This Notice amends the Schedule to clarify that the medical procedure of “major plexus block” (corresponding to the class of specialized service of “anaesthetic procedure” as specified in item 7 of the Schedule) includes cervical plexus block.