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Panel on Health Services

Meeting on 8 November 2024

Background brief on the regulatory regime under the Private Healthcare Facilities Ordinance (Cap. 633)

Purpose

This paper provides background information and summarizes the concerns expressed by Members of the Legislative Council (“LegCo”) on the regulatory regime under the Private Healthcare Facilities Ordinance (Cap. 633).

Background

2. The Private Healthcare Facilities Bill was introduced into LegCo in June 2017, and was passed by LegCo on 15 November 2018. Cap. 633 was gazetted on 30 November 2018.

3. Cap. 633 introduces a new regulatory regime for private healthcare facilities (“PHFs”), with the regulatory aspects covering corporate governance, standard of facilities, clinical quality, price transparency and sanctions. There are four types of PHFs subject to regulation, namely, (a) hospitals;¹ (b) day procedure centres;² (c) clinics;³ and (d) health services establishments.⁴

¹ If a facility provides accommodation for patients or medical procedures that last longer than 12 hours, or carries out [Hospital-only Medical Procedures](#) as stipulated in the Code of Practice for Day Procedure Centres, or provides delivery services for pregnant women, it must apply for a “hospital” licence.

² If a facility provides any service of the “scheduled medical procedures” listed in column 2 of [Schedule 3](#) to the Private Healthcare Facilities Ordinance, it must apply for a “day procedure centre” licence.

³ The key difference between a clinic and a “day procedure centre” is that, apart from providing general clinic services and “minor medical procedures”, “scheduled medical procedures” specified under Cap. 633 should not be carried out in a clinic.

⁴ Health services establishments encompass delivery of healthcare services that entails a significant level of risk or new modes of operation, including facilities for conducting clinical trials.

4. The Government will implement the regulatory regime in phases according to the types of PHFs and their risk levels. In brief, applications for licences for hospitals and day procedure centres have been accepted since 2 July 2019 and 2 January 2020 respectively. Hospital licences issued under Cap. 633 and the first batch of day procedure centre licences have come into effect on 1 January 2021. Details of the application for clinic licences and small practice clinic waivers⁵ will be announced in due course.

5. For details of the regulation of PHFs, please refer to the [website](#) of the Office for Regulation of Private Healthcare Facilities of the Department of Health (“DH”).

Major concerns of Members

Administration of local anaesthetic for preventing pain during cosmetic tattooing

6. When deliberating the Private Healthcare Facilities Bill, Members have expressed concern that the provision of prohibition on performing treatment or procedure causing personal injury (section 12 of Cap. 633) might inadvertently ensnare beauty practitioners performing cosmetic procedures, such as body tattooing and eyebrow tattooing.

7. The Administration has advised that some procedures, irrespective of whether they are for cosmetic or medical purposes, should only be performed by registered medical practitioners or registered dentists because of their inherent risks. Traditional body tattooing and piercing are exempted from being considered as a medical procedure, whereas depending on the circumstances, the administration of local anaesthetics to a person for the purpose of pain control is an act of practising Western medicine. In view of the concern of Members and stakeholders from the beauty sector on the administration of local anaesthetic for preventing pain during cosmetic tattooing, the Administration has undertaken to relay the issue to the Pharmacy and Poisons Board of Hong Kong for its consideration.

8. According to the website of the Office for Regulation of Private Healthcare Facilities, Cap. 633 mainly regulates premises where registered medical practitioners and registered dentists practise. Any premises

⁵ A small practice clinic is a clinic operated only by registered medical practitioner(s) or by registered dentist(s). Except for the sole proprietor, partners or directors, no other medical practitioners or dentists can serve the clinic. In addition, a small practice clinic should meet three conditions, namely the number of medical practitioners or dentists, the right to use the premises, and the locum arrangement.

(including premises claiming to be providing “beauty services”) that provide medical services (e.g. carrying out medical procedures) require day procedure centre or clinic licences under Cap. 633 depending on the nature of medical services or procedures they provide. These premises are subject to licensing conditions imposed by DH and the relevant codes of practice.⁶

Private hospitals’ use of Electronic Health Record Sharing System and packaged charges

9. Some Members have requested that all PHFs, or at least private hospitals, should be required to register as a healthcare provider for the Electronic Health Record Sharing System (“eHealth”), and considered that the Administration should require private hospitals to introduce packaged charges for more operations or procedures so as to further enhance price transparency of the services provided by private hospitals.

10. The Administration has undertaken to specify in the relevant code of practice that all private hospitals should register as a healthcare provider for eHealth and encourage private hospitals to provide more services at packaged charges; and in respect of some members’ concern on the private hospitals’ common practice of linking the levels of service charges to the types of ward, to relay the concern to the private hospitals and encourage them to explain to their patients clearly the various levels of service charges according to the types of ward.

11. Members have noted that as announced in the Chief Executive’s 2024 Policy Address, the Electronic Health Record Sharing System Ordinance (Cap. 625) would be amended to empower the Secretary for Health to require healthcare providers to deposit prescribed essential health data in personal eHealth accounts of members of the public, which would enable the latter to have more complete electronic health records, thereby enhancing the continuity of care. In addition, with the plan to consult the healthcare sector in 2025, the Administration would develop quality indicators for public and private healthcare systems and explore legislating for private healthcare price transparency.

⁶ The Steering Committee on Review of Regulation of Private Healthcare Facilities has made recommendations that the following four categories of procedures should be performed by registered medical practitioners or registered dentists: (a) cosmetic procedures that involve injections; (b) procedures that involve the mechanical/chemical exfoliation of the skin below the epidermis; (c) hyperbaric oxygen therapy; and (d) dental bleaching.

Fees charged by universities' day procedure centres, clinics or health services establishments

12. Cap. 633 stipulates that the licensee of a PHF must make available to the public information about the prices of chargeable items and services provided in the facility. As day procedure centres, clinics or health services establishments which are managed or controlled by the University of Hong Kong or the Chinese University of Hong Kong and are primarily engaged in teaching or research relating to medicine or dentistry are not regulated under Cap. 633, Members have requested the Administration to encourage them to publish price information on the fees and services they provide. The Administration has undertaken to follow up on the matter.

Timetable of the new regulatory regime coming into force in full scale

13. Members have urged the Administration to ensure that operators of PHFs concerned and the medical and dental professions had been fully prepared before the new regulatory regime came into force in full scale.

14. The Administration has advised that the new regulatory regime would commence in phases based on the types of PHFs and their risk levels. It would commence registration for individual types of PHFs first, whereas provisions prohibiting the operation of the types of PHFs concerned without a licence and prescribing other related offences would be put in force when the Administration considers that both members of the public and the stakeholders are ready for full-scale regulation of the types of PHFs concerned (including, where appropriate, when they have obtained provisional licences or letters of exemption).

Responsibilities and obligations of private hospitals in facing major public health incidents

15. In view that during the period when the fifth wave of the COVID-2019 epidemic in Hong Kong was extremely severe, a number of private hospitals were alleged to have refused to admit patients with fever symptoms, a question has been raised about whether the Administration would consider, by way of making amendments to Cap. 633, clarifying the responsibilities and obligations of all private hospitals in facing major public health incidents and regularly assessing the response of all private hospitals in facing such incidents, and using the assessment results as a factor for consideration in the renewal of licences and land leases or provision of tax exemption in future.

16. The Administration has advised that Cap. 633 aims to introduce a premises-based regulatory regime for different types of PHFs. Amongst others, it stipulates that the Director of Health may issue codes of practice on the equipment, fittings and furnishings in PHFs; the management and staffing arrangement of PHFs; the quality of care for patients and patients' safety in PHFs; and establishment of regulatory standards for any other matters relating to the protection of health and interests of individuals receiving healthcare services in PHFs. Cap. 633 does not empower the Government to mandate licensed PHFs to provide specified services under specific circumstances, nor does it concern land grant conditions.

Relevant papers

17. A list of the relevant papers on the LegCo website is in the **Appendix**.

Recent development

18. The Administration advised in January 2024 that as the COVID-19 epidemic subsided in 2023, DH has been planning the publicity and relevant guidelines in preparation for commencing the application for clinic licences and exemption letters for small practice clinics.

19. The Administration advised in October 2024 that it would brief the Panel on the latest progress and way forward of the phased implementation of the regulatory regime under Cap. 633 on 8 November 2024.

Appendix

Regulatory regime under the Private Healthcare Facilities Ordinance (Cap. 633)

List of relevant papers

Committee	Date of meeting	Paper
Bills Committee on Private Healthcare Facilities Bill	16 October 2018*	Report of the Bills Committee to the House Committee
Subcommittee on Private Healthcare Facilities Ordinance (Specification of Date for Section 135(1)(a)) Notice and Private Healthcare Facilities Ordinance (Specification of Date for Section 136(1)(a)) Notice	23 January 2019*	Report of the Subcommittee to the House Committee
House Committee	11 October 2019	Notices on commencement, related matters, and amendment of Schedule 3 of the Private Healthcare Facilities Ordinance Legislative Council Brief Legal Service Division Report
	20 August 2021	Notices on commencement and amendment of Schedule 3 to the Private Healthcare Facilities Ordinance Legislative Council Brief Legal Service Division Report
Panel on Health Services	18 October 2024	Agenda Item III: Briefing by the Secretary for Health on the Chief Executive's 2024 Policy Address Minutes

* Issue date

Council meeting	Paper
11 January 2023	Question 11 : Monitoring of services of private hospitals
30 October 2024	Question 4 : Healthcare services provided by unregistered persons

Council Business Division
Legislative Council Secretariat
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