

**立法會**  
***Legislative Council***

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**Paper for the House Committee Meeting  
on 28 March 2025**

**Legal Service Division Report on  
Electronic Health Record Sharing System (Amendment) Bill 2025**

**I. SUMMARY**

**1. The Bill**

The Bill seeks to:

- (a) amend the Electronic Health Record Sharing System Ordinance (Cap. 625) to expand the functions of the “Electronic Health Record Sharing System” (“eHealth System”), including:
  - (i) renaming the eHealth System and expanding the purposes for which it is maintained;
  - (ii) revising the scopes of health data, sharable data, and the consents under the eHealth System;
  - (iii) recognizing non-Hong Kong healthcare providers and information infrastructures for the operation of the eHealth System;
  - (iv) facilitating the use of electronic medical documents;
  - (v) requiring certain healthcare providers to provide certain health data to the eHealth System;
  - (vi) expanding the purposes for which data and information contained in electronic health records may be used; and
- (b) make consequential amendments to other Ordinances.

**2. Public Consultation**

The Administration engaged various stakeholders, the Steering Committee on eHealth and its working groups, and the Office of the Privacy Commissioner for Personal Data between late 2023 and early 2025. The stakeholders generally supported the legislative proposals.

**3. Consultation with  
LegCo Panel**

Whilst a majority of members of the Panel on Health Services supported the Administration’s plan in relation to the eHealth System at the meeting on 20 February 2024, various concerns were raised.

**4. Conclusion**

The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to introduce substantial changes to the eHealth System, Members may wish to form a Bills Committee to study the Bill in detail.

## II. REPORT

The date of First Reading of the Bill is 26 March 2025. Members may refer to the Legislative Council (“LegCo”) Brief (File Ref.: HHB CR 1/3261/24) issued by the Health Bureau in March 2025 for further details.

### Object of the Bill

2. The Bill seeks to:
- (a) amend the Electronic Health Record Sharing System Ordinance (Cap. 625) to expand the functions of the “Electronic Health Record Sharing System” (“eHealth System”), including:
    - (i) renaming the eHealth System and expanding the purposes for which it is maintained;
    - (ii) revising the scopes of health data, sharable data, and the consents under the eHealth System;
    - (iii) recognizing non-Hong Kong healthcare providers and information infrastructures for the operation of the eHealth System;
    - (iv) facilitating the use of electronic medical documents;
    - (v) requiring certain healthcare providers to provide certain health data to the eHealth System;
    - (vi) expanding the purposes for which data and information contained in electronic health records may be used; and
  - (b) make consequential amendments to other Ordinances.

### Background

3. The eHealth System, which was launched in 2016 (see paragraph 2 of the LegCo Brief), was an information infrastructure established and maintained under section 5 of Cap. 625 for keeping specified records of healthcare recipients (“HCRs”) (e.g. their personal particulars and health data (including information relating to their health conditions)), and sharing and using data and information contained in those records. The Chief Executive announced in paragraph 142 of the 2023 Policy Address the Administration’s initiative to roll out a five-year eHealth+ development plan to build a comprehensive healthcare information infrastructure. According to paragraph 3 of the LegCo Brief, the Bill is introduced to provide for the legal basis to support the Administration’s future development of the eHealth System and complement the healthcare reform, including primary healthcare and cross-boundary healthcare development. Key provisions of the Bill are summarized in the ensuing paragraphs.

## Provisions of the Bill

### Amendments to the Electronic Health Record Sharing System Ordinance (Cap. 625) to expand the functions of the “Electronic Health Record Sharing System”

#### *Renaming the “Electronic Health Record Sharing System” and expanding the purposes for which it is maintained*

4. Clause 10 of the Bill proposes to amend section 5 of Cap. 625 to change the name of the eHealth System to “Electronic Health System”, and to provide that the Commissioner for the Electronic Health Record (“Commissioner”) must also maintain the eHealth System for, among other things, providing support in connection with or facilitating the provision of healthcare to registered HCRs and health management by registered HCRs.

#### *Revising the scopes of health data and shareable data under the Electronic Health Record Sharing System*

5. Clause 5(2) of the Bill proposes to expand the definition of “health data” under section 2(1) of Cap. 625 to include (if applicable) any life-sustaining treatment that is not to be provided to an HCR as stated in an instruction in his or her advance medical directive. Clause 5(12) of the Bill seeks to include, as “shareable data” under section 2(1) of Cap. 625, any other data or information of the HCR that is, in the Commissioner’s opinion, necessary for the proper functioning of the eHealth System.

#### *Revising the scope of consents under the Electronic Health Record Sharing System*

6. Currently under section 7 of Cap. 625, an HCR must, in applying to be a registered HCR under the eHealth System, give a joining consent. A joining consent will allow the Commissioner to obtain from, and provide to, a prescribed healthcare provider (“HCP”) (i.e. the Department of Health (“DH”), the Hospital Authority (“HA”) or a registered HCP) to which an HCR has given a sharing consent any of his or her sharable data (i.e. personal particulars and health data). A registered HCR may, under the existing section 12 of Cap. 625, give a sharing consent to a prescribed HCP, and if given, such consent may be given for an indefinite term (until revocation etc.) or a one-year term. Pursuant to the existing section 16 of Cap. 625, a sharing consent is taken to have been given to DH and HA when an HCR gives a joining consent.

7. The Bill seeks to revise the scope of the consents under the eHealth System by, among others:

- (a) expanding the scope of a joining consent given by an HCR under the proposed amended section 7(3)(c) of Cap. 625 to the effect that, without the need of giving a sharing consent, a relevant HCP (i.e. a prescribed HCP (the definition is proposed to be expanded to cover (i) the Primary Healthcare Commission (“PHC”) or (ii) a healthcare facility managed or controlled by the Government, HA or an HA subsidiary (“Specified HF”) (clause 5(8) of the Bill)) or a recognized non-Hong Kong HCP (see paragraph 8 below)) would be allowed to provide to the eHealth

System any sharable data of the HCR once an HCR gives a joining consent (i.e. a sharing consent would still be required for a relevant HCP to obtain from the eHealth System any sharable data of an HCR) (clause 11(1) of the Bill);

- (b) removing the option of giving a sharing consent for a one-year term (clauses 16(3) and 18 of the Bill); and
- (c) expanding the scope of a sharing consent that would be taken to have been given when an HCR gives a joining consent under section 16 of Cap. 625 to cover PHC or a Specified HF (clause 20(1) and (3) of the Bill).

*Recognizing non-Hong Kong healthcare providers and information infrastructures*

8. Clause 28 of the Bill proposes to add a new Division 6 (proposed new sections 26A to 26D) to Part 2 of Cap. 625 to empower the Commissioner to recognize a non-Hong Kong HCP as an HCP for the eHealth System (which is not currently allowed under section 19(1) of Cap. 625) if specified requirements are met, and to provide for the withdrawal, suspension and revocation of such recognition.

9. Clause 28 of the Bill also seeks to add a new Division 7 (proposed new sections 26E to 26H) to Part 2 of Cap. 625 to empower the Commissioner to recognize a non-Hong Kong information infrastructure for connection to the eHealth System if specified requirements are met, and to provide for the withdrawal, suspension and revocation of such recognition.

*Facilitating the use of electronic medical documents and invalidating certain medical documents not issued through the Electronic Health Record Sharing System*

10. Clauses 28 and 56 of the Bill propose to add a new Division 8 (proposed new sections 26I to 26O) to Part 2 of, and a new Schedule 2 to, Cap. 625 respectively to facilitate the use of electronic medical documents (e.g. a requirement for a medical document to be in writing would be satisfied if the document is in the form of an electronic record that is issued or authenticated through the eHealth System (proposed new section 26J)). The proposed new section 26O(1) seeks to provide that an electronic medical document (to be specified in Part 1 of the proposed new Schedule 2 in the future by way of subsidiary legislation) would be invalid unless it is issued through the eHealth System. The proposed new section 26O(2) seeks to provide that a medical document (to be specified in Part 2 of the proposed new Schedule 2 in the future by way of subsidiary legislation) would be invalid if it is not in the form of an electronic record or not issued through the eHealth System.

*Requiring certain healthcare providers to provide certain health data to the Electronic Health Record Sharing System*

11. Clauses 29 and 56 of the Bill seek to add a new Part 2A (proposed new sections 26P to 26R) and a new Schedule 3 to Cap. 625 respectively to provide that, subject to the consent of the relevant registered HCR, a specified HCP would be required to provide specified health data to the eHealth System within a specified period. The specified HCP, specified health data and specified period would be described in the proposed new Schedule 3 (to be specified in the future by way of subsidiary legislation). Under the proposed new section 26R, if the Commissioner is of the opinion that a specified HCP has contravened the above requirement, the Commissioner

may give an enforcement notice (“Enforcement Notice”) to the HCP directing the HCP to provide the specified health data as required in the notice.

12.           Clauses 43 and 56 of the Bill propose to add new sections 47A to 47C and a new Schedule 4 respectively to Cap. 625 in relation to an Enforcement Notice. Under the proposed new section 47A, failure to comply with an Enforcement Notice would be an offence punishable with a fine at level 5 (HK\$50,000) on summary conviction, and a further daily fine of HK\$1,000 (if the offence continues after the contravention), with a statutory defence provided (e.g. exercising all due diligence to prevent the commission of the offence). Before any proceedings for such an offence are to be taken against a specified HCP, the Commissioner must, pursuant to the proposed new section 47B, give the specified HCP a penalty notice for payment of a fixed penalty (i.e. HK\$1,500) as described in section 2 of the proposed new Schedule 4 to Cap. 625, offering the specified HCP an opportunity to discharge the liability for the offence.

#### *Other amendments*

13.           Part 2 of the Bill proposes to make other technical and related amendments and provide for transitional provisions in the proposed new Schedule 6 to Cap. 625 (clauses 53 and 56 of the Bill). Such amendments include:

- (a)   expanding the purposes for which data and information contained in electronic health records may be used (clause 33 of the Bill);
- (b)   replacing “healthcare professional” with “Hong Kong healthcare professional” in section 37(2)(a) of Cap. 625 to the effect that more healthcare professionals (if the applicable requirement is met) specified in the Schedule (proposed to be renumbered as Schedule 1) to Cap. 625 would have access to any health data of an HCR (clauses 5(18), 36 and 55 of the Bill);
- (c)   amending section 49 of Cap. 625 to empower the Commissioner, among others, to request certain information from a body of persons specified in the proposed new Schedule 5 to Cap. 625 (clauses 44 and 56 of the Bill); and
- (d)   amending section 61 of Cap. 625 to provide that the Secretary for Health (“SH”) may, by notice published in the Gazette, amend the proposed amended or new Schedules 1 to 4 to Cap. 625 (see paragraphs 13(b), 10, 11 and 12 above), and the Commissioner may, by notice published in the Gazette, amend the proposed new Schedule 5 to Cap. 625 (see paragraph 13(c) above); such notices would be subsidiary legislation subject to the negative vetting procedure of LegCo under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) (clause 54 of the Bill).

#### Consequential amendments

14.           Part 3 (clauses 57 to 60) of the Bill proposes to make consequential amendments to the Administrative Appeals Board Ordinance (Cap. 442), the Private Healthcare Facilities Ordinance (Cap. 633) and the Dentists Registration (Amendment) Ordinance 2024 (Ord. No. 22 of 2024).

## Commencement

15. The Bill, if passed, would come into operation on a day to be appointed by SH by notice published in the Gazette.

## **Public Consultation**

16. According to paragraph 35 of the LegCo Brief, between June and August 2024, the Administration organized eight engagement sessions, covering more than 45 organizations (including HCPs, healthcare professionals associations and patient groups). From late 2023 to early 2025, the Administration engaged the Steering Committee on eHealth and its working groups on multiple occasions. In addition, the Office of the Privacy Commissioner for Personal Data has been consulted on the legislative proposals, and focused engagement sessions with Members, healthcare-related statutory Boards and Councils, and accredited healthcare professional bodies under DH's Accredited Registers Scheme for Health Professions were also conducted. According to the Administration, the stakeholders generally supported the legislative proposals to support the development of "eHealth+".

## **Consultation with LegCo Panel**

17. As advised by the Clerk to the Panel on Health Services, a majority of members supported the Administration's plan for the development of "eHealth+" at the meeting on 20 February 2024. Nevertheless, concerns were expressed about the large amount of funding for implementing the plan, the system security and data confidentiality of "eHealth+", uploading of electronic health records onto the eHealth System by private healthcare organizations, integration of the functions of the eHealth System and HA Go (a mobile application of HA), linking Chinese medicine and Western medicine medical records in the eHealth System, as well as using "eHealth+" for cross-boundary healthcare services.

## **Conclusion**

18. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to introduce substantial changes to the eHealth System, Members may wish to form a Bills Committee to study the Bill in detail.

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