12 March 2015

By mail and email

Healthcare Planning and Development Office
Food and Health Bureau
19/F, East Wing,
Central Government Offices
2, Tim Mei Avenue, Tamar,
Hong Kong

Dear Sir,

RE: Regulation of Private Healthcare Facilities

I am writing to express my view on the Government Consultation Document on Regulation of Private Healthcare Facilities (PHFs) proposed by the Food and Health Bureau (FHB) in December 2014.

I am a clinical oncologist trained in Hong Kong and have been a specialist in Clinical Oncology since 2002. I welcome the proposed regulatory framework as it is the most comprehensive and up-to-date recommendations in the past 50 years. Although the Consultation Document covers major issues in regulating private hospitals and certain private healthcare facilities, there are significant loopholes, which continue to put the public interest and health at risk. My views on these loopholes and proposed remedies are summarized in the following five points:

1. **Regulation of Beauty Services (Steering Committee Working Group 1) and Premises Processing Health Products for Advanced Therapies (Steering Committee Working Group 3) are completely left out in the current consultation documents**

   I understand that it is the intention of the Administration to focus on the recommendations from the Steering Committee Working Group 2 (Defining High-risk Medical Procedures / Practices Performed in Ambulatory Setting) and Group 4 (Regulations of Private Hospitals) in the current consultation document. Regulations on beauty services (WG1) and premises processing health products for advanced therapies (WG3) are said to be regulated through another new legislation. However, no detailed regulatory framework or even a reasonable working timeframe for WG1 & WG3 is available so far. I should remind the Administration that the medical incidents causing casualties were resulted from procedures carried out in PHFs supposed to be regulated under the recommendations from WG 1 & WG 3 (the major medical incident

involved the manipulation of human cells and tissues and subsequent re-infusion for homologous use in a beauty service premise). I am surprised to see that the culprit is not on the top priority of the Administration's regulation. The safety of the public will be at risk for another decade if stringent regulations are not imposed on these two groups as soon as possible.

2. **Regulation of 'non high-risk' PHF are not included**

According to the Administration, a new legislation regulating PHFs will replace Cap. 165 and Cap. 343. The new legislation should be comprehensive with a broad coverage to include all PHFs, instead of just the three classes mentioned in the document. I propose regulation on a 4th class (include solo practice private medical practitioners, group practice private medical practitioners and all PHFs not providing high-risk procedures). This class comprises of more than 2/3 of private medical practitioners. I cannot see the reason why regulatory aspects such as A1 (Person-in-charge), B6-8 (standards of facilities), C9 (service delivery and care process) and D15 (provision of fee schedule) do not apply to this 4th class in the era of modern healthcare management and increasing expectation on public safety. Relying on the ethics and self-discipline coupled with sanctions via the Medical Council (under Medical Registration Ordinance Cap 161) for the 4th class is inadequate due to the low efficiency of the Medical Council (average time to hand disciplinary cases is 2-3 years) and its limited authority on sanction (no power on imprisonment). Issues discussed in the proposed new legislation do not seem to be well-covered in the original MRO Cap 161. It seems unfair for different private medical practitioners to be regulated by different ordinance / legislation merely due to the difference in the type of services provided (many major regulatory aspects mentioned above should apply to all private medical practitioners). The new legislation, coupled with the setup of new regulatory authorities, should oversee all private medical practitioners to provide a comprehensive protection for the public, instead of only the proposed three classes, which constitute less than 1/3 of private medical practitioners.

3. **Person-in-Charge**

I support the mandatory appointment of a person-in-charge (PIC) for all private hospitals (class 1) and PHFs under the management of incorporated bodies (class 3) due to the operational risks. Qualifications and duties of the PIC should be clearly defined. However, for PHFs providing high-risk medical procedures, many are co-owned and co-managed by several medical specialists. They do not carry the

operational risks like that of class 1 & 3. Exemption to appoint PIC should be granted to class 2 PHFs if they are "owned, managed, operated and serviced solely by identical registered medical practitioners" (exemption to appoint PIC is granted to class 3 PHFs if they are owned, managed, operated and serviced solely by identical registered medical practitioners – refer to point 16 of executive summary on P.10 of consultation document). Even if PIC is appointed, he / she should only be responsible the operation of the PHF, instead of the medical liabilities of other clinic partners.

Furthermore, different levels of penalty should be defined for different aspect of regulation violation.

4. **Definition of "High Risk Procedures" and Regulatory Authorities**

With the advancement in medical technology and rapid changes in medical practices, definition of "high-risk procedures" and facility standards specific to certain procedures (e.g. haemodialysis, endoscopy, chemotherapy) should be reviewed on a regular basis. There should be close collaboration amongst the regulatory authorities, the Hong Kong Academy of Medicine (HKAM), private professional organizations and PHFs. The input from private professional organizations and PHFs are important as they can provide valuable opinions regarding the on-hands situation in real life practice to supplement the proposal by academics from universities and HKAM college representatives.

The proposed new regulations impose stringent requirements on medical practitioners delivering "high-risk procedures" in ambulatory setting. I propose to tighten the regulation on qualified medical practitioners eligible to deliver certain "high-risk procedures". Chemotherapy should only be delivered by oncologists (clinical oncologist, medical oncologists, heamatological oncologists, paediatric oncologists). All private hospitals should only allow qualified oncologists to deliver chemotherapy (currently, some breast / gastrointestinal tract surgeons, gynaecologists deliver chemotherapy in their clinic or in hospitals).

5. **Fee Structure and Price Transparency**

The private sector has all along been criticized for being "very expensive", "low fee transparency", "over-charged"...etc. The accusation is misleading. The public enjoys "nearly free" quality health services in the public hospitals and they never have any idea on the actual medical cost incurred. The Government has paid for them and they think that medical fee should be free or "very cheap". When they have to pay "out-of-pocket"

in the private sector, they come across with the "actual cost" of medical services and have the illusion that the medical cost is "rocket-high" and the private sector is "over-charging".

All hospitals and most private medical practitioners have clear fee schedule, and price information will be provided to the patients whenever possible and upon request. Of course, these apply to non-urgent and known medical conditions before admission or treatment. The public and the patients should be educated to enquire on the fee schedule, and to understand that in the era of personalized medical treatment, there are variations in the medical fees for the same procedure.

Only hospitals and certain PHFs are regulated on fee structure and price transparency in the current proposal. The majority of the public will still be left unprotected on this issue as many medical practitioners in solo practice or "non high-risk" PHFs are not being regulated. Hence, I propose regulation on fee structure and price transparency should be applied to all hospitals, all PHFs and private medical practitioners.

Summary:

Overall, I welcome the proposal in the consultation document. However, the culprit facilities causing medical incidents are not on the top priority list of the Administration's regulation. Furthermore, at least 2/3 of medical practitioners working as solo practice or "non high-risk" PHFs are not included in the current proposal and are only regulated by "ethics and self-discipline". The majority of the public are still left unprotected.

I sincerely hope that the Administration can consolidate and analyse the views from all stakeholders to formulate a comprehensive and practical legislation to safeguard the public health and interest.

Thank you for your kind attention.

Yours Sincerely,

Dr WONG Shun Man Irene
Specialist in Clinical Oncology