

# 6 *The Ethics Committee and the Professional Code and Conduct*

6.1 The Ethics Committee (EC) is established by the Council and its functions include:-

- (a) to study and review any case relating to medical ethics or professional conduct, either on its own motion or at the request in writing of not less than 20 registered medical practitioners;
- (b) to advise and make recommendations to the Council on matters about medical ethics and professional conduct generally.

6.2 The membership of the EC (as at 31 December 2007) was as follows:-

Dr David FANG, SBS, JP (Chairman)  
Dr CHAN Chok-wan  
Dr CHAN Yee-shing  
Ms CHEUNG Jasminia Kristine\*  
Dr CHOW Pak-chin  
Dr LAI Cham-fai  
Professor LEUNG Ping-chung, SBS, OBE, JP  
Dr LI Kwok-tung, Donald, JP  
Mrs LING LEE Ching-man, Eleanor, SBS, OBE, JP\*\*  
Dr SHIH Tai-cho, Louis  
Professor TAO LAI Po-wah, Julia\*\*\*  
Dr TSE Hung-hing (from 1 December 2007 onwards)

\* *lay person who is appointed for a term of three years with effect from 1 March 2006.*

\*\* *lay person who is re-appointed for a term of two years with effect from 25 March 2006.*

\*\*\* *lay person who is re-appointed for a term of three years with effect from 12 February 2007.*

6.3 Since January 2005, the EC has been updating the Professional Code and Conduct (the existing Code) issued in November 2000 to incorporate previously approved changes, to improve clarity and remove ambiguities, and to re-arrange the provisions in a more systematic manner. With the endorsement of the Council, the Code would be renamed as the "Code of Professional Conduct" (the updated Code) upon promulgation. Subject to finalizing a few more changes, the updated Code would be printed and promulgated in the near future. However, the Council had decided

to promulgate Part II of the updated Code on "*Conviction of an offence and professional proceedings*" ahead of the promulgation of the complete updated Code. Part II of the updated Code, which superseded Part II of the existing Code on "*Conviction of an offence punishable by imprisonment*", was promulgated in the 13<sup>th</sup> Issue of the Council's Newsletter in April 2007.

- 6.4 The updating exercise continued in 2007. The EC considered it necessary to clarify and reinforce the guidelines for issuing certificates and other documents. On the recommendation of the EC, the Council promulgated section 26 of the updated Code on "*Untrue or misleading certificates and similar documents*", which superseded paragraph 3 of the existing Code on "*Untrue or misleading certificates and other professional documents*", in the 14<sup>th</sup> Issue of the Council's Newsletter in December 2007.
- 6.5 In 2007, the Council, on the recommendation of the EC, had granted:-
- (a) approval to the Hong Kong Society of Plastic, Reconstructive & Aesthetic Surgeons to publish a doctors directory in February 2007;
  - (b) special approval to the Hong Kong Medical Association (HKMA) to publish a district-based doctors directory for the NT East in April 2007;
  - (c) renewal of approvals to HKMA and the Hong Kong Doctors Union (HKDU) to continue publishing their doctors directory in September 2007; and
  - (d) special approval to the Hospital Authority (HA) to continue publishing its cluster-based doctors directory.
- 6.6 In considering the request of HKMA to publish a district-based doctors directory, the EC noticed that the "Guidelines on Doctors Directories" ("the Guidelines") as set out in Appendix F of the updated Code of Professional Conduct did not allow publishing a district-based doctors directories. However, the EC was of the opinion that the concept of a district-based directory would facilitate dissemination of service information to the public. Therefore, the EC recommended that the Council could give special approval in individual cases so as to cater for the publication of

district-based doctors directory. The recommendation of the EC was endorsed by the Council and published in the 13th Issue of the Council's Newsletter in April 2007. The review of Appendix F was still on-going with a view to encouraging publishing organizations to distribute their doctors directories widely.

- 6.7 The EC had been reviewing paragraphs 5 and 14 of the existing Code since 2006. The review was still ongoing by the end of the year 2007. Any amendments, if approved, would be incorporated into the updated Code.
- 6.8 The EC had considered a request from the HKDU concerning the project "Diabetes Prevention and Screening Programme for High Risk People - Professional Drivers in Hong Kong" jointly held by the HA and the HKDU. The EC was of the view that doctors participating in the above-mentioned programme would not contravene the existing Code if no follow-up consultation would be arranged for / by participating doctors. The EC's view was endorsed by the Council.
- 6.9 In 2007, the EC had considered the Administration's proposal to introduce 'medical director' (MD) concept in the regulation of health maintenance organizations (HMOs). The EC had formed some views on the medical director proposal. Agreeing with the views of the EC, the Council agreed to give the Health Services Panel of the Legislative Council a reply on Council's views on the medical director proposal put forward by the Administration as follows:-
- (a) It might be unjust for the Council to sanction MDs for failing to observe any guidelines to be promulgated by the Council in this respect, as MDs are only employees and might not be able to influence the management decisions of the HMOs. Thus the MDs would become scapegoats of the HMOs.
  - (b) Although the proposal was not perfect, some Council Members considered it a step forward in regulating HMOs.

- (c) Insurance companies were not covered by the proposal. The proposal should be extended to cover insurance companies providing health insurance as they could have significant impact on the practice of doctors.
- (d) The proposal would give the public an impression that those HMOs with an MD would be better governed, and that the standard of medical service would be assured. This false sense of security might mislead the public.
- (e) It was understood that the Administration intended to regulate HMOs through a voluntary scheme as a start. However, a legislative timeframe should be firmed up in order to formally regulate HMOs through legislation.
- (f) The definition of "HMOs" is unclear. The Administration should define the term more precisely, in order to determine the scope of the regulatory scheme.

6.10 On the request of the HA, the EC considered its proposed publication of doctors' lists in connection with its "Public-Private Interface – Electronic Patient Record Sharing Pilot Project" ("the Project") and "Private Participation in Additional Cataract Surgeries Programme" ("the Programme"). The EC noticed that the permitted channels of dissemination of service information were set out in section 5.2.3 (*Dissemination of service information to the public*) of the updated Code. However, the proposed publication of doctors' lists did not fall within any of the permissible forms of dissemination as set out in section 5.2.3. Noting that the information was of public interest and benefit, the EC recommended and the Council agreed to make exceptions to section 5.2.3 of the updated Code to allow the proposed distribution of the lists of participating doctors to participating patients in both the Project and the Programme.