
THE UNIVERSITY OF HONG KONG

A Report from the Committee of Enquiry on
Complaint about Inappropriate Billing for Private Patient Service

July 2007

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EXECUTIVE SUMMARY

1. In the light of a report received by the Vice-Chancellor referring to a complaint lodged by a private patient (the “Complaint”), the Committee of Enquiry (the “Committee”), appointed pursuant to the University’s statutes and regulations, investigated apparent irregularities concerning cases of private patients involving the Medical Faculty of the University (the “Faculty”). The Committee’s investigation focused on a number of areas:
 - (a) in cases where professorial fee was waived, whether the required payments were indeed waived or whether payments were made to accounts not belonging to the University of Hong Kong (the “University” or “HKU”) or the Hospital Authority (“HA”);
 - (b) whether there was improper recording of the diagnosis/clinical procedures on the billing forms *vis-à-vis* the actual procedures performed; and
 - (c) the possible non-creation of attendance records and/or billing records of some private patients

(*paragraphs 7-11* of the Report refers).
2. The investigations into these areas resulted in the discovery of *prima facie* evidence suggesting that the matter should be referred to the appropriate external authorities for investigation. The Committee made a report to a law enforcing body on March 14, 2007. Both the law enforcing authority and the University solicitors have drawn the attention of the Committee to the fact that it would be against the law for the Committee to disclose details of the report (*paragraph 13*).
3. Arising from the Complaint, the Committee reviewed the entire billing arrangements for private patients. In this connection and in order to have a better understanding of the billing arrangements and to see whether there are any possible areas of concern in such arrangements, the Committee also examined the

relationship between the University and the Hospital Authority hospitals (the “HA hospitals”); the contributions made by the Faculty in providing private patient services to the community; the outside practice regulations and arrangements of the University; the normal arrangements for private patients to consult clinical teachers of the University and to make payments for the services; and the procedures for dealing with income generated from private patient services (*paragraphs 2-6*).

4. In reviewing the entire billing arrangements for private patients, the Committee has found that certain aspects in the existing practices and procedures are deficient. The following main areas of concern are identified:

- (a) given the existing billing arrangements, it is possible that no proper attendance or clinical records are established in the cases of some patients, and thus no proper billing arrangements can be made; and it is also possible that such patients could be asked by individual staff of the University to pay fees to an account not belonging to HA or HKU (*paragraph 15.1*);
- (b) as there is no procedure for carrying out regular checks to see if there are any discrepancies between the billing records and the medical records, it is possible that HA charges a patient on the basis of the “procedures” reported by the clinical teacher in the billing form which are different from the clinical procedures actually performed and entered in the medical record (*paragraph 15.2*);
- (c) while clinical teachers could waive up to 75% of the fee payable by private patients (the remaining 25% goes to HA and cannot be waived), across-the-board policy and guidelines for waiving of professorial fees have not been drawn up. The lack of such policy and guidelines and the lack of transparency in granting waivers may lead to possible abuse by individual staff, such as recording a waiver in the billing form and subsequently bypassing HA and HKU to ask the patient to pay to a third party (*paragraph 15.3*);

- (d) although the Committee does not find any problem with the arrangement of asking patients always to make payments to either HA or HKU, it is possible that some patients could be misled by individual staff into making payments to companies or organizations with names that appear to relate to HA or HKU, without the knowledge of HA or HKU (*paragraph 15.4*); and
- (e) there are no publicized guidelines for determining the percentage of outside income to be apportioned to individual clinical teachers' ledger accounts (which is for the professional development of individual teachers); and clinical teachers in some departments have complained that they are not provided with information on the use of outside practice income which is credited to the departmental supplementary account and normally managed by the Head of Department (although actual expenditures from departmental supplementary accounts are monitored by the Finance and Enterprises Office (the "FEO") in accordance with University procedures and guidelines, and all money transactions are handled through the FEO) (*paragraph 15.5*).

5. The Committee also felt improvements could be made in the following areas:

- declaration of possible conflict of interest by University staff (*paragraph 15.4*);
- consistent practice across departments in matters relating to billings of outside practice (*paragraph 16.2*);
- information provided to the University, Faculty and Department by HA relating to private patient services (*paragraph 16.4*);
- billing arrangements for private patient services in non-HA hospitals (*paragraph 16.5*);

- billing arrangements for laboratory tests for private patients (*paragraphs 16.6 & 16.7*); and
 - sharing of income by HA and HKU (*paragraph 16.8*).
6. The Committee is responsible mainly for fact-finding in relation to the subject matter of the Complaint. Given this role and time constraints, the Committee has not drawn up detailed recommendations on changes and improvements to be made to the existing arrangements. Such task can only be undertaken by a special working party consisting of relevant and interested parties which are concerned in the working of these arrangements. The Committee therefore recommended the Council of the University to set up working groups, together with HA and non-HA hospitals where appropriate, to work out necessary measures to improve the existing arrangements (*paragraph 18*).
7. The Committee would also wish to recommend that, as a matter of priority, the University's Audit Committee should review the systems and procedures in the Faculty with a view to enhancing these systems and procedures and ensuring their compliance. It would indeed be a good practice for the University to have a mechanism that would allow its Internal Audit Team to respond quickly to events as necessary (*paragraph 19*).

I INTRODUCTION

1 Background

1.1 This report (“Report”) covers two aspects of work that have been undertaken by the Committee of Enquiry (“Committee”) chaired by Dr. C.H. Leong:

- (a) an investigation into the complaint about inappropriate billing for private patient services in the Faculty of Medicine (the “Faculty”) involving a member of staff of the Faculty; and
- (b) a review of the billing arrangements for private patients of the clinical departments of the Faculty.

1.2 To enable readers to better understand the issues raised in the Report, an attempt is made to explain the following at the outset:

- the relationship between the Faculty and the Queen Mary Hospital (“QMH” or “Hospital”) and other hospitals;
- the private patient services provided by the clinical departments of the Faculty;
- the University’s regulations and arrangements relating to private patient services;
- the normal arrangements for private patients to consult clinical teachers of the Faculty, including the billing arrangements for such patients; and
- the disbursement of income generated from private patient services.

2 The Faculty of Medicine and Queen Mary Hospital and other hospitals

- 2.1** The University's close partnership with QMH dates back to 1937, when its Faculty of Medicine transferred clinical teaching to the then newly completed hospital. Over the years, the Faculty has, through the hard work and innovations of its staff, students and alumni, pioneered in medical education, medical research, and clinical services, to become an internationally renowned medical school. QMH has also been transformed to an acute regional hospital with about 1400 beds under the Hospital Authority ("HA"), providing, *inter alia*, tertiary referral services to the population on Hong Kong Island, and an extensive range of clinical and auxiliary services.
- 2.2** A notable development is the full integration of specialty services in the previous University Medical Unit and Government Medical Unit in the mid-1990's. The synergy has raised the standard of service in the specialties concerned. Capitalizing on the extensive expertise and research outcomes of the Faculty and the HA, QMH is currently offering a total of 16 specialties: Anaesthesiology; Accident and Emergency Service; Clinical Oncology; Ear, Nose and Throat; Medicine; Microbiology and Virology; Neurosurgery; Obstetrics and Gynaecology; Oral Maxillo-facial Surgery and Dental Surgery; Ophthalmology; Orthopaedics and Traumatology; Paediatrics and Adolescent Medicine; Pathology and Clinical Biochemistry; Psychiatry; Radiology; and Surgery.

3 Private patient services

- 3.1** The Faculty of Medicine, through QMH and other HA hospitals, has been providing comprehensive and quality clinical services to the community at large, including "private patients", generally through referral by other practitioners of the medical profession. These private patients are charged full cost according to the relevant fee schedule as

gazetted by the Government. A major consideration for such an arrangement is that all patients, including those who wish to receive services similar to those provided by the private sector, should have the right of access to special expertise and cutting edge technology/facilities in the public medical sector (including QMH and other hospitals). Such an arrangement also allows clinical teachers of the Faculty to access the widest range of cases so that they will acquire, over time, extensive experience and expertise in dealing with different types of illnesses. The experience and expertise gained, in turn, contribute to medical education and clinical services. Indeed, many private patient cases are referred because of their complexities and/or rarity; and the experience gained in the diagnosis and treatment of such cases will eventually lead to advancement of clinical skills and knowledge.

- 3.2** Clinical teachers of the Faculty also provide limited patient services in non-HA hospitals. At the same time, the Faculty sends its students to non-HA hospitals for clinical training and clerkships.

4 Regulations and arrangements

- 4.1** Where the University is concerned, the provision of consultation services for private patients in HA hospitals and patients in some non-HA hospitals underscores the University's stated missions of acting in partnership with the community over the generation, dissemination and application of knowledge; and engaging in innovative, high-impact and leading-edge research within and across disciplines. These activities come under "outside practice" (more specifically "clinical outside practice") which is governed by a comprehensive set of regulations, viz. Regulations Governing Outside Practice by Professoriate Staff and Faculty's Guidelines on Outside Practice (Appendix B).

- 4.2** Under these regulations, clinical outside practice is limited to those clinical teachers who have at least 7 years' post-registration experience in the specialty concerned; who possess recognized higher professional qualifications; who are accredited by the Academy of Medicine; and who have obtained the approval of the Department Head/Faculty Dean.
- 4.3** Clinical outside practice (including laboratory tests) in most cases is restricted to consultative practice (*i.e.* as referred by other medical practitioners) which is appropriate to the consultant's own expertise. In the case of this University, the place of practice, for both in-patient and ambulatory care service, is normally confined to those hospitals where teaching of the Faculty takes place. Prior approval must be sought from the Faculty of Medicine Outside Practice Sub-Committee if the clinical outside practice has to take place in other hospitals for operational reasons. The time of practice allowed for each clinical teacher is normally not more than 2 half-day sessions (about 8 hours in total) per week.
- 4.4** The Faculty does not permit clinical teachers to receive directly any income generated from clinical outside practice*. Instead, 10% of the net income derived is set aside for general development of the Faculty and for professional insurance policy of its clinical teachers, while the remaining 90% is credited to the department concerned, from which

(Note* The arrangement of not permitting clinical teachers to receive directly any income generated from outside practice as described in this paragraph and subsequent paragraphs was in place at the time of the Complaint and the Committee's investigation. The Faculty Outside Practice Sub-Committee however agreed in May 2007 to revise the arrangement so that clinical teachers are entitled to receive part of the professorial fee.)

the department shall allocate a sum not less than 25% and not more than 50% of the net outside practice annual income generated by a clinical teacher to a ledger account under the name of that teacher. The allocated amount as credited to the said ledger account under the name of that teacher is kept by the Finance and Enterprises Office (“FEO”) of the University, to be used by that teacher (subject to approval by the Department Head) for professional staff development purposes, such as attending conferences, subscribing to professional journals, subscribing to membership in academic organizations, purchasing computer equipment, appointing research support staff, *etc.* No cash payment is made directly to that teacher except for reimbursement of allowable expenditure incurred by him/her for professional development purposes. The remainder of income of the Department (*i.e.* the total income less the 10% levy paid or payable to the Faculty and the amounts credited to ledger accounts of individual teachers) is credited to a departmental supplementary account which is used for normal activities of the department and normally managed by the Department Head, although actual expenditures from departmental supplementary accounts are monitored by the FEO in accordance with University procedures and guidelines, and all money transactions are handled through the FEO.

5 Arrangements for private patient cases in HA hospitals

The normal arrangements for private patients who wish to consult a clinical teacher of the Faculty in a HA hospital are as follows:

- (a) the patient or his/her representative (*e.g.* a family physician) contacts the Department Secretary or the secretary of the clinical teacher concerned to make an appointment for consultation;
- (b) once an appointment is made, a new medical record is created if the patient does not have any record of a previous consultation; and for a

patient who already has a medical record, the existing medical record is located;

(c) for an outpatient:

- (i) staff of the private patient clinic marks attendance when the patient turns up for the appointment;
- (ii) the clinical teacher concerned updates the relevant medical record after consultation/operation/procedures and inputs the charges according to the relevant gazetted schedule;
- (iii) the clinical teacher concerned or staff of the department then inputs the summary of the medical records into the computer system;
- (iv) a set of billing forms is prepared, usually by the nurse or departmental staff; and if the clinical teacher concerned decides to waive his/her professorial fee, he/she will inform the nurse or departmental staff accordingly;
- (v) a debit note is issued to the patient, and the patient pays the bill to HA at the HA shroff; and
- (vi) HA issues a receipt to the patient; and

(d) for an inpatient:

- (i) the patient is required to pay a deposit to HA upon admission;
- (ii) after consultation/operation/procedures, the clinical teacher concerned enters/updates the relevant medical record, and write down the clinical procedures performed;

- (iii) staff of the ward mark the date of consultation/operation/ procedures and the name of the clinical teacher concerned on the billing form;
- (iv) the clinical teacher initials and marks the clinical procedures performed and the fee to be charged on the billing form, *either* on the spot *or* at a later stage when the form is sent to his/her office; and if the clinical teacher decides to waive his/her professorial fee, he/she will indicate this on the form accordingly;
- (v) the billing form is sent to HA shroff, through the departmental staff/nurse or directly by the clinical teacher; and
- (vi) the amount payable by the patient is deducted from the initial deposit; and depending on whether the amount payable is greater or less than the amount of deposit, the patient either makes an additional payment to HA or obtains a refund from HA.

6 Income from private patient services in HA hospitals

6.1 The procedures for dealing with income generated from private patient cases in HA hospitals are as follows:

- (a) the HA issues a “Statement of Professorial Fee” to each clinical department every month, showing patient’s names, amount paid by patients and amount in respect of the income of the department concerned that is remitted to the University;
- (b) on a monthly basis, HA remits the agreed percentage of consultation fee received (generally 75% of the total) to FEO of HKU;

- (c) based on HA's remittance advice on the amount to be apportioned to each clinical department, the FEO will credit the respective amounts to a departmental outside practice ledger accounts kept by FEO (as the HA advice does not include detailed information on patients and payment made by each patient, no reconciliation task is performed by FEO);
- (d) at the end of the "Outside Practice year" (*i.e.* March 31), each clinical department sends instructions to the FEO on the amounts to be distributed from its outside practice account to the following accounts:
 - (i) Faculty development fund account (10%);
 - (ii) individual staff supplementary ledger accounts (25% to 50% of the income generated by the staff member; the exact amount to be credited to each account is as instructed by the Department Head); and
 - (iii) departmental supplementary account (the remainder of the total amount is credited to this account which is normally managed by the Head of Department).

(The FEO carries out the instructions of the Department Head in respect of the crediting of sums to the respective individual staff ledger accounts and the departmental supplementary account. As with procedure (c), it does not have sufficient information to check/query such instructions.)

6.2 For non-HA hospitals, the clinical teacher concerned informs his/her department on the amount of consultation fee to be charged in each private patient case, and the department issues a debit note to the patient so that the patient can settle the bill by making a payment to the University. (The private hospitals do not impose a levy as they charge the patients directly for the overhead.) The income generated is credited to the departmental outside

practice ledger account referred to in paragraph 6.1(c), and the distribution procedure is the same as described under paragraph 6.1(d).

- 6.3** Regarding different types of laboratory tests that use the University's facilities and equipment in the University's buildings and within QMH, the billing of private patients is directly handled by clinical departments. The clinical departments issue the bills to patients. The patient *either* pays cash to the department concerned, upon which he/she is issued a receipt by the department, *or* pays the University through the bank. The FEO subsequently credits the income from laboratory tests to departmental supplementary accounts to which expenses directly relate to the tests are charged.

II INVESTIGATION OF THE COMPLAINT

7 Background

- 7.1** The Vice-Chancellor received on January 3, 2007 a report from a staff member (the “Complainant”) referring to a complaint lodged by a private patient (the “Complaint”). Upon advice of the University’s solicitors – Johnson Stokes and Master (“JSM”), the Vice-Chancellor determined that the matters reported concerning another member of staff of the University (the “Respondent”) should be dealt with in accordance with the University’s Procedures for the Resolution of Staff Grievances (the “Procedures”) (Appendix A).
- 7.2** In accordance with Paragraph 5 of the Procedures, Professor Joseph Lee, Pro-Vice-Chancellor, was asked by the Vice-Chancellor to deal with the complaint. Professor Lee decided to refer the complaint to the Chairman of the Grievances Panel, Dr. C.H. Leong, and wrote to him about this on January 23, 2007.

8 Committee of Enquiry

- 8.1** Having studied the complaint and the information provided, the Chairman of the Grievances Panel decided to convene a Committee of Enquiry (“the Committee”) on January 27, 2007.
- 8.2.** The membership of the Committee, which was drawn from the Grievances Panel in accordance with the Procedures, comprised the following three “lay” members of the Council of the University:

Dr. C.H. Leong,
Mr. Justice Patrick Chan, and
Ms. Wendy Gan.

Following the Procedures, Dr. Leong was the Chairman of the Committee. The Committee subsequently co-opted Mr. Wong Kai Man, a member of the Court of the University and a member of the University's Audit Committee.

8.3 The Committee was cognizant of its powers and responsibility. Under the Procedures, the Committee is deemed to be a standing committee of the Council and is authorized by the Council to exercise all the powers of the Council that it may exercise under the Statutes to address any grievances. Its responsibility is:

- (a) to enquire into the complaint referred to it;
- (b) to determine whether the complainant had a genuine complaint and to determine the relevant facts;
- (c) to dispose of the complaint in a manner as it thinks fit;
- (d) to make any recommendation as it thinks fit; and
- (e) to make a report of its findings, decisions and recommendations to the Council for its record.

9 Declarations

Before the Committee started the investigation, members declared that though they knew the Respondent, they had no financial or business connection with the Respondent.

10 The Committee's Tasks

10.1 The Committee agreed on undertaking the following tasks:

- (a) to investigate the reported irregularities, involving the Respondent;
and

- (b) to review the existing procedures and arrangements for billing private patients of clinical departments of the Faculty, with a view to identifying areas where improvement may be needed.

10.2 In pursuing these tasks, the Committee held a total of 7 meetings, on February 9, March 8, March 12, March 28, May 11, June 8 and July 3, 2007. The Committee, with help of a team from KPMG (Hong Kong) (see paragraph 11.2) and HA, made attempts to collect evidence from various stakeholders and from other sources; and to establish facts. The following is an account of its investigation of the matter.

11 Areas Investigated

11.1 In pursuing the first task, the Committee considered the detailed information provided in the Complaint and other papers. Based on these documents, the Committee identified four possible areas to be investigated:

- (a) the possible irregular mode of charges for private patients in a clinical department;
- (b) in the cases of private patients who did not pay professorial fees to the University, whether the required fee payments had indeed been waived or whether the patients had made payments (in part or in full) to any other accounts;
- (c) whether there was improper recording of the clinical procedures on the billing form *vis-à-vis* the actual procedures performed; and
- (d) the possible non-creation of attendance records and/or billing records of some private patients.

11.2. The Committee agreed that help from external experts was needed in view of the large number of records involved. It commissioned a team of accountants

from KPMG (Hong Kong) (“KPMG team”), to help look into details concerning cases mentioned in the January 3, 2007 letter. In view of Mr. Wong Kai Man’s professional expertise and extensive experience, he worked closely with the Director of Finance to determine the scope of work to be undertaken by the KPMG team; and also closely communicated with the team during its investigation.

12 Conduct of Hearings

12.1 In order to collect information and establish facts, the Committee invited the parties concerned to attend a hearing and/or to submit statements and evidence.

12.2 The Complainant attended a hearing on March 12, 2007, solely in the capacity as a witness. In reply to the Committee’s enquiries, the witness provided information on the procedures and arrangements for admission and billing of private patients; the granting of professorial fee waivers; the different types of patient records; and the reported charging irregularities.

12.3 The Committee had encountered difficulty in arranging for the Respondent to attend a hearing. Instead of attending a hearing, the Respondent submitted a statement providing information and comments on the billing arrangements for private patients.

12.4 The Chairman of the Committee and a representative from JSM met a member of HA who provided useful information on the billing system and on the areas being investigated by the Committee.

13 Conclusions Reached

13.1 Following the above and having met with various other parties within the Faculty and HA, and considered the information gathered, the Committee had reached a conclusion that there was *prima facie* evidence suggesting the matter should be referred to the appropriate external authorities for investigation. On March 14, 2007, the Committee reported to a law

enforcing body accordingly. The Committee was advised by both the law enforcing authority and the University's solicitors not to disclose details of the report.

13.2 The Committee reported its action to the Council meeting on March 20, 2007. The Council was informed at the same time that the Committee would continue the fact-finding task as listed under paragraph 10.1(b), *i.e.* to review the existing procedures and arrangements for billing private patients of clinical departments, with a view to identifying areas where improvement might be needed.

III REVIEW OF THE SYSTEM

14 The Committee's Approach

For the second phase of investigation, the Committee had, through meetings with representatives from HA and the KPMG team, worked closely with HA. The Committee examined the entire billing arrangements relating to private patient services provided by the University's clinical departments in both HA and non-HA hospitals, by "walking through" each and every step of the procedures for:

- (a) monitoring and controlling income from services provided to private patients by clinical teachers at HA hospitals and non-HA hospitals, including but not limited to the following:
 - (i) registration of private patients from whom fee revenue for clinical services provided by HKU teachers is due;
 - (ii) keeping of patients' medical records;
 - (iii) determination of charges payable by private patients, including approving the waiver of professorial fees;
 - (iv) as appropriate, subsequent billing by HKU in accordance with the services provided as per the medical records;
 - (v) settlement of bills issued by HKU to private patients;
 - (vi) settlement by HA of professorial refund due to HKU, less waivers;
 - (vii) keeping of accounting books and records by HKU and reconciliation of such data between HKU and HA as appropriate; and

- (viii) compliance measures on (including implementation of appropriate control measures):
 - (1) the policies and arrangements made between HA and HKU, in respect of services provided by HKU staff to private patients in HA hospitals;
 - (2) the policies and arrangements made between HKU and individual non-HA hospitals, in respect of private patient services provided by HKU staff in these hospitals;
 - (3) the University's policies, regulations and guidelines in respect of clinical outside practice by clinical teachers; and
 - (4) other HKU policies, procedures, and arrangements identified but not listed above which relate to fee payments by, and HKU income received from, private patients; and
- (b) handling of income received by HKU from private patient services and subsequent accounting for and use of such income by the Faculty and departments concerned.

15 Main Areas of Concern

Through the investigation into the Complaint as detailed in Section II of the Report and the review of the current system as mentioned under paragraph 14, the Committee has found that certain aspects in the existing practices and procedures are deficient. It has identified some main areas of concern, which are mostly related to private patient services provided by the Faculty in QMH and other HA-hospitals (where applicable), as discussed in the following paragraphs.

Admissions and billing records

15.1 Regarding the possible non-creation of attendance records and/or billing records of some private patients in QMH, the normal arrangements are as described under paragraph 5 - *i.e.* when a patient or his/her representative (*e.g.* a family physician) contacts the Department Secretary or secretaries of the clinical teacher concerned to make an appointment for consultation, and turns up for the appointment, the patient's appointment and subsequent attendance would each be duly registered under the HA system. However, there are currently no measures to prevent a private patient from contacting a clinical teacher directly without going through departmental staff, and receiving a consultation session by that clinical teacher without having his/her attendance duly recorded. It follows that, for this type of patients, it is possible that no billing records/forms are created/issued under the HA system or by the Department. In other words, there may be patients who do not have a record with HA or the Department, and yet are asked by individual staff of the University to make a payment to an account not belonging to HA or HKU.

Medical record and billing form

15.2 The investigation of the Committee has revealed that under the HA system, a private patient's medical record is handled separately from his/her billing record. As mentioned under paragraph 5, the medical record is updated by the clinical teacher concerned after the consultation/operation/procedures; and either the clinical teacher or the staff of the Department inputs the summary of medical record into the computer system of the HA. The normal arrangement for an outpatient then is for a set of billing forms to be prepared usually by the nurse or departmental staff, for payment by the patient. As for an inpatient, the clinical teacher concerned initials and marks the clinical procedures performed and the fee to be charged on the charging form either on completion of the clinical procedures or at a later stage when the form together with the medical record are sent to his/her office, and he/she could then arrange for the form to be sent directly to the HA shroff for a debit note to be issued to the patient. In both inpatient and outpatient cases, the medical

record and the billing record could be handled separately. Discrepancy therefore may arise between the completed billing form and the medical record with regard to the clinical procedures performed; *e.g.* the charging form could indicate that the patient underwent “sigmoidoscopy” (and the amount of professorial fee to be charged for such procedures) while the medical form could indicate that the patient underwent “colonoscopy” (which entails a different charge). As far as the Committee is aware, there is no arrangement for HA or individual departments of the Faculty regularly to check the billing record against the medical record, in order to detect possible discrepancies. It is therefore possible that HA charges the patient on the basis of the “procedures” reported by the clinical teacher in the billing form which could be different from the clinical procedures actually performed and entered in the medical record. Besides, as mentioned under paragraph 15.1, it is also possible that no billing record is kept for an outpatient whose admission was not duly recorded.

(The Committee has been told lately that a set of new arrangement has been introduced by HA. According to the information that the Committee has been provided, the new arrangement requires a nurse to record the clinical procedure as documented in the medical record on a new standard pricing form, and for the completed form to be authorized by the clinical teacher before entry into a new HA computer system which automatically interfaces with the main billing system. Under such an arrangement, two staff members are thus involved in the medical record documentation and billing process.)

Waiver of fees

- 15.3** Under the normal arrangement, clinical teachers could waive up to 75% of their professorial fee payable by private patients. The remaining 25% goes to HA, and therefore cannot be waived. There are no guidelines at the University or Faculty level on granting of waivers. In the absence of a set of across-the-board guidelines, different practices arise in different departments with regard to the amount of waiver granted, and the kinds of patients who could benefit from such waivers, *e.g.* clinical colleagues, HA staff, and donors.

The clinical teachers are not required to record reasons for the waivers granted. Equally, HA does not include waiver cases in the “Statement of Professorial Fee” sent to the departments concerned and the University’s FEO. As there is no readily available information at the departmental and University levels, it is difficult to gauge both the extent and pattern of waivers granted by clinical teachers to individual private patients. Furthermore, this lack of information may lead to abuse by individual staff. For example, even though a waiver of professorial fee has been granted to a patient through the official channel (*i.e.* recorded on the HA billing form), the patient may still receive a “debit note” purported to be issued by HA or HKU (such as one printed on paper with departmental letterhead and/or stamped with a “departmental stamp”), requiring the patient to settle professorial fees by paying into an account that belongs to neither HA nor HKU.

Payment of charges

- 15.4** As explained under paragraph 4.3 and paragraph 6.1, it is clear to clinical teachers, departmental and HA staff that the professorial fee should be paid to *either* the HA (for consultation/operation/procedures) *or* to HKU (for conduct of laboratory tests). The debit note/bill issued to a private patient clearly indicates to which institution (either HA or HKU) payment should be made by the patient. In this aspect, there does not appear to be any loopholes in the existing arrangement. It is therefore totally outside the normal procedure/arrangement for any clinical teacher or departmental staff to advise patients to pay professorial fees to any other organizations/accounts. Patients should normally expect to make payment to HA or HKU, instead of a third party. As the bills use broad category terms for consultation/operation/procedures carried out, it may not be entirely clear to a patient what he/she is being charged for, but it should be clear to the patient that the payment is to be made to either HA or HKU. However, it is possible that patients could be misled if they are asked to pay to a third party which appears to be a unit or division under HKU or HA but in fact is an outside organization or company. The University has a policy of requesting its staff members to declare possible conflicts of interest (the Regulations Governing Declaration of Conflict of

Interest and the Disclosure Form can be founded in Appendix C). The University should take steps to make sure that its staff include in their proper declarations all organizations/companies in which they are involved, so that it would be in a better position to identify those organizations/companies which have names that might mislead the public into believing that they are under HKU or HA.

Allocation and expenditure of outside practice income

15.5 Under the Regulations Governing Outside Practice by Professoriate Staff and Medical Faculty's Guidelines on Outside Practice (Appendices B1 and B2), 25% - 50% of the outside practice income is allocated to a clinical teacher's designated individual staff ledger account for his/her development purposes. As stated under paragraph 6.1(d), the normal practice is for the Department Head concerned to instruct the FEO at the end of each Outside Practice year on the respective amounts to be transmitted to individual staff ledger accounts. The remaining income (*i.e.* the total income less the 10% levy to the Faculty and the amounts credited to ledger accounts of individual staff) is credited into the department's supplementary account which is managed by the Department Head. Some clinical teachers have complained that there is no transparency regarding the apportionment of income to individual staff ledger accounts. This is because there are no publicized guidelines for determining the percentage of the outside practice income to be allocated to an individual clinical teacher. It is therefore possible that some clinical teachers may be allocated the lowest percentage on the range (25%) while others, the highest percentage (50%) on the range, which may or may not be based on their actual workload with regard to private patient service. Furthermore, some departments also do not provide staff members with clear information on how the income credited to their department's supplementary account is managed and used, as it could be totally in the hands of the Head of Department (although actual expenditures from departmental supplementary accounts are monitored by the FEO in accordance with University procedures and guidelines, and all money transactions are handled through the FEO).

16 Other Findings

16.1 As mentioned in paragraph 14, the Committee examined the entire billing arrangements relating to private patient services provided by the University's clinical departments by "walking through" the procedures. In examining each step of the procedures, the Committee has, in addition to the main areas of concern listed in paragraph 15, identify related areas in which there may be problems as a result of lack of transparency. The findings on these areas are presented in the following paragraphs.

Consistency in practice across departments

16.2 Notwithstanding the Regulations referred to in paragraphs 4.1 and 15.5 and possibly due to the devolved administrative system over the years, there is a lack of consistency at departmental level in matters such as determination of charges (within the range of professorial fee as determined by Government Gazette); the billing and settlement arrangements; maintenance of books and records; and income reconciliation processes. As a result, the levels of controls in relation to the billings for outside practice also vary from department to department, with some departments maintaining their own sets of detailed transaction records for checking against HA statements of professorial fee, and other departments relying solely on HA statements to record the amount of professorial fees received. The respective roles of clinical teachers and administrators in the billing process are also not clearly defined. Further, there is no periodic review of the billing arrangements in place, which falls short of best practices elsewhere.

Necessary information for reconciliation

16.3 As mentioned under paragraph 6.1, HA hospitals provide "Statements of Professorial Fee" to each clinical department monthly, showing patients' names, their payments, and amount remitted from HA hospitals to the University. There are different arrangements in different clinical departments to ensure the accuracy and completeness of the professorial fees remitted from HA hospitals. Some departments have internal records which they could

compare to the Statements to check whether the latter is accurate or otherwise, while other departments do not have a set of internal records to check for accuracy.

16.4 More importantly, these Statements do not carry pertinent information such as:

- details of services rendered by individual clinical teachers in reported cases;
- transactions that have not yet been settled by patients; and
- transactions in which waivers have been given, and the amount of fee waived.

The lack of important information has made it difficult for clinical departments to reconcile and check income from professorial fee, and take necessary actions about unpaid fees and waivers. Due to the lack of such information, it is also difficult for the University and/or the Faculty to monitor overall income from this channel.

Services provided in non-HA hospitals

16.5 Private patient services are also provided in non-HA hospitals, albeit more limited in scope than in HA hospitals. The Committee is concerned that existing arrangements depended very much on individual clinical teachers, since it is up to a clinical teacher to inform his/her department about the type of service and the amount of fee to be charged after he/she has rendered the service. As non-HA hospitals concerned do not send information to the University or the department concerned on these cases, reconciliation and checking of what has been reported by the clinical teacher are not possible.

Diversified billing for laboratory tests

16.6 As mentioned under paragraph 6.3, clinical departments issue bills directly to patients for laboratory tests. It was found that different departments have different arrangements in issuing bills, *e.g.* bills might be issued at laboratories, private clinics, or administration offices, depending on the type of tests; and the formats for bills issued to patients also vary from department to department. Such diversified billing arrangements for laboratory tests may cause confusion among patients, and make overall monitoring by the University and/or the Faculty difficult.

16.7 The billing records are kept separately from the records on details of the tests performed. Thus discrepancy may arise in the billing record and the test record with regard to the test performed for a particular patient. Under the existing arrangement, billing records are not checked against this set of test records, to detect inaccuracies. Also there is no periodic review of fees charged, to ensure they are in accordance with the fees gazetted by the Government.

Sharing of Professorial Fee

16.8 The practice of sharing of professorial fee with QMH (and subsequently HA) can be traced back to the year 1940. The allocation of professorial fee is generally 25% to HA and 75% to the University. However, there are exceptions, such as for surgical operations, 54% - 56% of fees are allocated to the University after deduction of the portion payable to HA's anaesthetists. The sharing arrangements in respect of services which mainly use equipment items or facilities provided by HA are also different. In the case of diagnostic radiology and pathology, for example, the University's share is 25% and HA's is 75%. As the income sharing arrangements have been in place for many years (the 75% HKU and 25% HA arrangement was introduced from as early as December 1, 1948), it may be necessary to review these long standing arrangements from time to time, to ensure that the respective shares of the income reflect the degree of involvement of clinical teachers and HA staff; the

contribution of special knowledge and expertise of clinical teachers and HA staff; and usage of facilities and equipment owned by the University and HA respectively.

IV CONCLUSIONS

- 17** The Committee’s findings in the first phase of the investigation reflect that there could be areas in the existing system where improvement is needed. The Committee therefore has made an attempt to undertake a fact-finding mission on what the actual billing arrangements are across clinical departments, *vis-à-vis* normal arrangements as detailed in Section I “Introduction”; and allocation of income from clinical outside practice. It has identified a number of major areas of concern as well as related areas where there may be a lack of transparency. It is evident that a coherent policy has to be formulated, and applied consistently, with monitoring measures to be in place. These and other improvement measures require a concerted effort of the University, the Faculty, the departments and clinical teachers concerned. For those concerns that touch on arrangements within HA, (*e.g.* reconciliation of billing record and medical record, additional information in the Statement of Professorial Fee), the University will have to work closely with HA to bring about the necessary changes.
- 18.** In view of its given role (the Committee is responsible mainly for *fact-finding*) and time constraints, the Committee has not drawn up detailed recommendations on changes and improvements to be made. The Committee expects the Council of the University to set up relevant working parties, together with HA and non-HA hospitals where appropriate, to work out measures necessary to improve the existing arrangements.
- 19** During its investigation, the Committee noted some other issues relating to systems and practices. As these issues are outside the remit of the Committee’s focus, they are not addressed in this report, but will be referred to the University.
- 20** In view of the events that triggered this investigation as well as possible concerns that some members of the public might have about the management and operations of the Faculty, it may be appropriate for the University’s Audit Committee to, as a matter of priority, conduct a review of the systems and

procedures in the Faculty of Medicine as soon as practicable with a view to enhancing these systems and procedures and ensuring their compliance. It would indeed be a good practice for the University to have a mechanism to allow its Internal Audit Team to respond quickly to events as necessary.

STAFF GRIEVANCES

PROCEDURES FOR THE RESOLUTION OF STAFF GRIEVANCES

PREAMBLE

Under section 2(l) of Statute XIX of the Statutes of the University of Hong Kong ("Powers of the Council"), "the Council shall have power to appoint any person or committee to entertain and, if appropriate, adjudicate upon, on its behalf, complaints from members of the University and persons employed in it and to redress their grievances".

Pursuant to this provision, the Council hereby establishes a Grievances Panel and authorizes the Committee of Enquiry set up in accordance with these Procedures to exercise all the powers of the Council which the Council is authorized to exercise in dealing with complaints and grievances under Statute XIX. The Council further adopts these Procedures to assist the Committee of Enquiry to discharge its task. These Procedures apply to complaints and grievances of appointees (but not of those members of the University who are not appointees of the University).

It is the Council's intention, in laying down these Procedures, to provide a means whereby the complaint of an appointee, or group of appointees, against another appointee, or against a student, may be heard, in a fair and impartial fashion, and, if possible, resolved. While not wishing to over-judicialize the process, the Council nonetheless believes it to be necessary to make certain formal provisions to protect the rights both of the person making the complaint and of the person against whom the complaint is made. However, it is the Council's hope that these proceedings will be conducted as informally as possible, within the guidelines laid down, with a view, wherever possible, to resolving complaints and grievances to the satisfaction of all the parties concerned.

The Council views the implementation of these Procedures as a last resort, and expects that the appointees concerned, and their colleagues, supervisors, Heads of Departments and deans, as appropriate, will make every attempt to deal with complaints and grievances at departmental level.

PROCEDURES

Application

1. These Procedures apply to all appointees on Terms of Service I, Terms of Service I (Clinical Medical Staff), Terms of Service II, III and IV, and any other appointee on a full or part-time contract of temporary employment.
2. These Procedures shall not apply to the following matters:
 - (a) any matter about which an appeal lies elsewhere (including any complaint by a student against a member of staff) according to the relevant statutes or regulations of the University;
 - (b) any matter which is sub judice elsewhere;
 - (c) any dispute with a person outside the University; and

- (d) any matter which involves an allegation of corruption, or of criminal behaviour which has been reported to and is under investigation by a law enforcement agency.

General Principles

3. Any complaint made by an appointee, or a group of appointees, against any other appointee (as defined in paragraph 1) or against any student of the University as defined in Statute I shall first be resolved at the unit, Departmental or Faculty level as the case may be. These Procedures shall be resorted to only as a last resort.
4. Any appointee having a complaint which falls within the provisions of these Procedures, and which he has not been able to resolve informally, shall refer the matter, at his discretion, to his immediate supervisor, or to his Head of Department, or to the Dean of his Faculty, who shall attempt to clarify the nature of the complaint, and to resolve it.
5. If the complaint fails to be resolved under paragraph 4, an appointee ('the complainant') may refer the complaint, formally in writing, to a Pro-Vice-Chancellor ('the PVC') to be named by the Vice-Chancellor from time to time.
6. A complaint made by a group of appointees must be specific, and common to all members of the group. The group shall appoint a spokesman, who shall act on behalf of the group as the complainant for the purpose of these procedures.

Unresolved Complaints to a Pro-Vice-Chancellor

7. Upon receipt of a complaint, the PVC shall, unless it is otherwise inappropriate to do so, ask the immediate supervisor, or the Head of Department, or the Dean of the Faculty of the complainant, or any other person whom the PVC considers appropriate, to furnish a report setting out the nature of the complaint and the steps that have been taken to attempt to resolve it.
8. Upon receipt of a report under paragraph 7 (or when it is inappropriate to call for such a report), the PVC may:
 - (a) dismiss the complaint if he considers it to be trivial or malicious or if the complaint has or is being dealt with elsewhere or is otherwise not worth pursuing;
 - (b) consider the complaint and resolve it himself;
 - (c) refer the complaint to the appropriate person or committee or office of the University, for further investigation or action;
 - (d) refer the complaint to the appropriate public body, eg, the police or the Independent Commission Against Corruption and consider whether to stay the consideration of the complaint pending the outcome of the investigation by the appropriate public body; or
 - (e) refer the complaint to the Chairman of the Grievances Panel.
9. In making a decision under paragraph 8, the PVC may consult any person as he considers appropriate and/or an advisory committee set up for such purpose.

10. The PVC shall notify the complainant, and the person against whom the complaint is made ('the Respondent'), of his decision under paragraph 8.
11. If the PVC decides to adopt the course of action in paragraphs 8(a) or (b), the complainant may nonetheless ask the Grievances Panel to deal with the complaint, and the Grievances Panel shall do so provided that the complaint is within its jurisdiction.

Concurrent Dismissal Proceedings

12. Where a recommendation for the termination of the contract of a complainant has been made at the time when the PVC is to decide whether to refer the complaint to the Grievances Panel under paragraph 8 above, the PVC shall consider whether to proceed with the complaints under these Procedures and whether to suspend the dismissal proceedings. In making the decision, the PVC shall consider, among other things,
 - (a) the timing of making the complaint and the recommendation for the termination of the contract of a complaint;
 - (b) whether the complaint is intended to delay or in any way frustrate the recommendation for dismissal;
 - (c) whether the recommendation of dismissal is a response to the complaint or a retaliation of the complaint;
 - (d) whether there is any substance in the complaint;
 - (e) whether the grounds of the complaint can be or have been dealt with in substance in the dismissal proceedings;
 - (f) whether the complaint has raised any issue which should be independently investigated and dealt with in the interest of the University notwithstanding the dismissal proceedings (eg, when it raises issues of abuse of power irrespective or independent of the dismissal proceedings); and
 - (g) whether it is in the best interest of the University to resolve the complaint and stay the dismissal proceedings until the conclusion of the complaint process or to proceed with the dismissal alongside the resolution of the complaint or to adopt any other appropriate course.

Grievances Panel

13. There shall be a Grievances Panel ('the Panel') comprising not less than six and not more than ten members:
 - (a) a chairman, appointed by the Council, who shall be a member of the Council but who is not an appointee of the University;
 - (b) two members of the Council as appointed by the Council, at least one of them shall not be an appointee of the University; and
 - (c) other members appointed by the Council who may not necessarily be members of the Council.

The members shall be appointed for a period of three years, and their appointments shall be renewable.

Reference to the Grievances Panel

14. If a complaint is referred to the Panel, either by the PVC under paragraph 8 or by the complainant under paragraph 11, the Chairman of the Panel may dismiss it summarily if:
 - (a) the complaint is trivial or malicious or otherwise not worth pursuing;
 - (b) the complaint does not fall within the Panel's jurisdiction under the provisions of paragraph 2; or
 - (c) the complaint has otherwise been resolved.
15. If the Chairman of the Panel does not dismiss the complaint under paragraph 14 above, he shall set up a Committee of Enquiry to investigate the complaint.

Committee of Enquiry

16. The Committee of Enquiry is deemed to be a standing committee of the Council and is authorized by the Council to exercise all the powers of the Council that it may exercise under the Statutes to address any grievances.
17. The Committee of Enquiry shall comprise the Chairman of the Grievances Panel and two other members of the panel appointed by the Chairman. The Chairman of the Grievances Panel shall be the Chairman of the Committee of Enquiry. If the Chairman of the Grievances Panel is unable to act at the time a Committee of Enquiry needs to be set up, members of the Grievances Panel shall elect an Acting Chairman from amongst the lay members of the Council on the Grievances Panel to chair the Committee of Enquiry and otherwise act on behalf of the Committee. The Chairman and members of the Committee of Enquiry shall be persons not otherwise involved in the complaint. The Registrar shall appoint a secretary to the Committee.
18. The Committee of Enquiry may, as it deems fit, co-opt not more than two members to the Committee. Co-opted members may be appointed from amongst the staff or the students of the University, as deems appropriate to the Committee, but shall not include any person who has a direct interest in the complaint, or who has taken part in any informal attempt at conciliation.
19. The responsibility of the Committee of Enquiry shall be the following:
 - (a) to enquire into the complaint referred to it under paragraphs 8 or 11 above;
 - (b) to determine whether the complainant has a genuine complaint and to determine the relevant facts;
 - (c) to dispose of the complaint in a manner as it thinks fit;
 - (d) to make any recommendation as it thinks fit; and
 - (e) to make a report of its findings, decisions and recommendations to the Council for its record.

20. Without prejudice to the generality of paragraphs 16, 19 and 23, the Committee of Enquiry shall have the power:
- (a) to determine, in its sole discretion, the procedures for its enquiry;
 - (b) to have access to such University documents as are relevant for the purposes of its investigation;
 - (c) to require the complainant, the respondent, the staff member involved, and any other persons concerned to give evidence, in person and/or in writing; and
 - (d) to terminate the investigation before its conclusion if continuance of the investigation is no longer warranted or required, in which case it should report its decision to the Council.

Conduct of the Enquiry

21. When a Committee of Enquiry is set up, the complainant and the respondent shall be notified of this in writing. They shall, at the same time, be informed:
- (a) of the membership of the Committee;
 - (b) of the right to appear before the Committee;
 - (c) of the right to be informed of the case they have to meet, and to receive, in confidence, any written submission made by the other side;
 - (d) of the right to present evidence and/or to call witnesses (or request the Committee to do so on his behalf);
 - (e) of their rights to bring with them a friend or an adviser, who may speak on their behalves, when appearing before the Committee;
 - (f) of the procedures to be adopted, and the powers and duties of the Committee of Enquiry;
 - (g) of the fact that they will receive a confidential report from the Committee of Enquiry on the completion of its investigation and that they will have an opportunity to comment on the appropriate action to be taken; and
 - (h) of the confidential nature of the proceedings, and of their obligation to maintain that confidentiality.
22. The complainant and the respondent shall be asked to state in writing, by a specified date in advance of the hearing, whether they wish to submit any additional statement or evidence or whether they will appear in person with or without a friend or an adviser, and whether they wish the Committee to call any witnesses on their behalf. They shall provide, on or before a date to be specified by the Committee of Enquiry, their written statement or evidence and a written notice of the name and status of their friend/adviser and/or the witnesses whom they wish the Committee to call.

23. The Committee of Enquiry shall conduct its investigation fairly and in accordance with the following guidelines:
- (a) The Committee shall act as an inquisitorial body and shall make such enquiries as it thinks fit, and seek and receive any evidence which it considers relevant. It may ask any questions of the complainant, the respondent, and any other person appearing before it;
 - (b) The complainant and the respondent shall be given an opportunity, either orally or in writing, to present their case and to respond to any information or evidence which is brought to the attention of the Committee by either party or from any third party during the investigation and which appears, in the Committee's sole discretion, to call for response, clarification or confirmation;
 - (c) The Committee may meet the complainant and the respondent separately;
 - (d) Neither the complainant nor the respondent needs be present at the investigation. The Committee has a power not to permit the complainant or the respondent to be present at all or some of its meetings on investigation;
 - (e) The Committee may permit the complainant (or his accompanying person or adviser) to ask questions of the respondent, or any of the witnesses; and
 - (f) The Committee may permit the respondent (or his accompanying person or adviser) to ask questions of the complainant, or any of the witnesses.
24. On completion of its investigation, the Committee shall deliberate among itself and prepare a written report setting out its findings of facts, its conclusion, its reasons for decisions, the proposed action to take, and any other recommendations to the Council.
25. A copy of the report shall be given to the complainant, the respondent, the PVC, the Vice-Chancellor, and the Chairman of the Council on a confidential basis.
26. The complainant and the respondent shall be invited to make written response to the proposed action to take within 3 weeks of receipt of the report. The written response shall be confined to a comment on the proposed action. The Committee may, in its sole discretion, hold a meeting to hear the complainant and/or the respondent in person for this purpose.
27. Upon receipt of the written responses in paragraph 26 above, or upon the expiry of 3 weeks if no response is received, the Committee of Enquiry shall finalize the action to be taken and take appropriate action to dispose of the complaint. It shall set out in its report the action that it has taken and any other recommendations to the Council and the Vice-Chancellor for consideration and implementation.
28. The Committee of Enquiry shall report its decision to the Council for its record. The Council may decide whether to publish the report.
29. During all stages of the proceedings, the complaint, its details and the Committee's report shall be dealt with by all parties concerned in strict confidence. Unauthorized disclosure of any information, details or documents relating to the report may result in appropriate action by the Council.

Pro-Vice Chancellor, Deputy Vice-Chancellor and Vice-Chancellor

30. In the event that a Pro-Vice-Chancellor or Deputy Vice-Chancellor is himself the respondent against whom the complaint is made, the PVC shall be replaced in these Procedures by the Vice-Chancellor, and in the event that the Vice-Chancellor is himself the respondent, the PVC shall be replaced in these Procedures by the Chairman of the Council.

November 2004

The University of Hong Kong

532/305 amended

Regulations Governing Outside Practice by Professoriate Staff***Preamble***

1. In fulfilling the University's mission to "engage innovative, high-impact and leading-edge research within and across disciplines" and "act in partnership with the community over the generation, dissemination and application of knowledge", the University encourages its teachers to participate in sponsored research, consultancy, and other activities that are not directly initiated by the University nor arising out of their contract of employment. The University has no objection to, and indeed encourages teachers to undertake such outside activities on individual basis, provided that the outside practice must not interfere with the normal University duties or should such work be incompatible with an individual's University appointment in terms of limiting their academic independence or of restricting the dissemination of knowledge.
2. In undertaking outside practice, teachers should ensure full compliance with the University's policy on Conflict of Interest and the regulations governing outside practice.
3. "Teachers" in these regulations refer to all professoriate staff.
4. The University's expectation is that outside practice should contribute to the effectiveness of teachers' teaching and/or research. To this end, the University would not regard it as appropriate for teachers to accept commissions requiring only general skills which fellow professionals outside might be expected to undertake with equal competence (unless such commissions will enhance the appointee's performance as a teacher), but would expect teachers to restrict their activity as far as possible to work of a kind requiring specialised skills which are not readily available outside the University. In this connection teachers who undertake outside practice work should avoid laying themselves open to charges of unfair competition with firms or members of professions in Hong Kong. In particular, fees should be related to those that would be charged commercially by such firms or professionals.
5. The legal position is that if an outside body or person pays for services or advice there is a contract express or implied (and liability must exist even where there is no payment). Such a contract, unless the wording states otherwise, imposes a duty that all reasonable skill and care must be taken in providing the service or advice. In all cases where a teacher accepts an outside practice commission and where there is no contract with the University as such, the teacher must make it clear to the organisation or person making use of his services that he is acting in his personal capacity and not as an agent of the University or on behalf of the University, and that no liability will be attached to the University, even though the member of staff has permission through his contract of employment with the University to undertake the work. In this connection, the teacher is required to inform each client commissioning the work in writing of this legal position. Teachers should also consider carrying insurance to cover themselves against possible claims for alleged false statements or negligence.

Research contract, service contract and consultancy

6. Research contract, service contract and consultancy can be arranged at the departmental, faculty or University level. When approached by outside contracting party for research contract, the individual teacher should in the first instance consult the Research Services in order to ensure that the contract is consistent with University policies. Please refer to the Handbook on *Research Directions, Policies and Function at the University of Hong Kong* (which can be viewed at <http://www.hku/hk/local/rss/handbook/index.htm>) and in particular the chapters on Research and Service Activities and Processes Involved in Submitting a Grant Application therein. After consulting the Research Services on the research project undertaken, the teacher concerned shall also apply to the Faculty Outside Practice Sub-Committee for approval if the research contract, service contract and consultancy involve payment of a consultation fee to the teacher, in accordance with the regulations 5 and 6 governing outside practice. The University/Faculty will impose a levy appropriate for administration and other costs.

Regulations

1. These regulations are made by the Council. A teacher may engage in outside practice, i.e. the use for reward (which shall include fees, honoraria, retainers, and any other remuneration whatsoever) by a teacher of his professional knowledge outside of or in addition to his University duties, in accordance with such regulations as the Council may make from time to time, but not to the detriment of the performance of his University duties.

Types of Outside Practice

2. Outside practice includes, but is not limited to, the following activities:

- (a) teaching outside the University, whether occasional lectures, systematic programmes of teaching, or courses of lectures, for other tertiary educational institutions, public or private organisations;
- (b) teaching self-funded programmes within the University, or teaching at University's subsidiaries such as HKU SPACE, Poon Kam Kai Institute of Management, and INSTEP;
- (c) teaching and/or research at another tertiary educational institution (or equivalent) undertaken during periods of paid leave from the University;
- (d) providing expert advice in legal proceedings (whether or not outside practice has been done in connection with the subject matter of the evidence);
- (e) the production of teaching aids; the writing of instructional/educational materials; and the production of computer programs for another department within the University or for another institution;
- (f) work undertaken for the Hong Kong Examinations Authority;
- (g) consultative practice in which the services of a teacher are engaged only through the medium of a professional colleague;
- (h) direct practice in which the services of a teacher are engaged direct; and
- (i) laboratory tests, services, measurements and analyses at the request of lay or professional clients;
- (j) undertaking research contract, service contract and consultancy project.

3. Outside practice does not include the following activities:

- (a) external examining work for another tertiary institution in respect of undergraduate and postgraduate examinations;
- (b) literary work, covering, *inter alia*, the writing of books, scripts or articles for publication, book reviews and casual journalism;
- (c) broadcast talks or interviews and consultations in the preparation of radio or television programmes; and
- (d) any paid employment undertaken during periods of unpaid leave from the University.

Time Limit

4. A clear understanding needs to be reached between a teacher and his Head of the precise time commitment to outside practice in terms of working hours away from the department on a scheduled basis to reduce the risk of disputes arising over interference with teaching, research and administrative duties. The time devoted to outside practice should not normally exceed the equivalent of one working day per week. "One working day" should be regarded as equivalent, in the case of non-clinical teachers,

to 8 hours of work; and in the case of clinically qualified teachers, to 2 half-day sessions. It will be helpful for Heads to meet each colleague in consultative (and similar) practice at least once a semester to review commitments and to resolve potential problems of relevance to the department.

Faculty Outside Practice Sub-Committee and Administrative Arrangements

5. Where the outside practice involves minimal time commitment and the total remuneration involved is below HK\$10,000 in one outside practice year, the Head of Department shall be notified. No University levy shall apply in respect of such outside practice where the total income is below HK\$10,000.
6. Teachers shall apply, in writing, to the Faculty Outside Practice Sub-Committee for approval before undertaking any other forms of outside practice that exceed the remuneration limit as specified in paragraph 5. The written application shall state the nature of the outside activity, the time commitment, the remuneration and the University resources entailed, if applicable.
7. The Faculty Outside Practice Sub-Committee shall be the approving authority for outside practice applications for teachers in each Faculty. Membership of the Faculty Outside Practice Sub-Committee shall be as follows:
 - (a) Chairman, appointed by the Dean of the Faculty (who may appoint himself);
 - (b) Dean of the Faculty (if he is not the Chairman); and
 - (c) 4 members from different departments/divisions within the Faculty, 2 of whom shall be Heads of Departments/Divisions.
8. In giving its approval, the Faculty Outside Practice Sub-Committee must ensure that the following conditions are fulfilled:
 - (a) The outside practice to be undertaken is in line with the University's mission and the departmental/faculty goals; specifically under no circumstances can a teacher be permitted to engage in outside activity that conflicts with the department, faculty or University's interest.
 - (b) The outside practice does not affect a teacher's discharge of his/her principal duties within the University and the time commitment is within the one day per week rule. Where the outside engagement is of a substantial nature which may interfere with the teacher's academic duties, he/she shall be required to apply for no-pay leave or modify the appointment terms from full-time to fractional employment.
 - (c) Teachers who wish to engage in outside practice through the medium of a limited company or a partnership with outside persons or 'fractional' appointees shall, upon application, submit a written declaration to the Faculty Outside Practice Sub-Committee on all direct and indirect benefits (both in cash or equivalent such as shares/options etc. and in kind such as provision of free accommodation etc.) that they would be entitled to under the proposed arrangement.
 - (d) The services of University non-teaching staff (such as secretaries, technicians, etc.) shall not be used within normal office hours on outside commissions if such use interferes with internal departmental business.
 - (e) The University must be fully reimbursed for all direct costs arising from the identifiable use of departmental or central resources, including, in particular, the use of specialised equipment, computing and photocopying services, and consumable materials. The Head of Department/Dean of Faculty will be responsible for the recovery of the cost of departmental resources, after consultation with the Director of Finance if necessary.
9. The Faculty Outside Practice Sub-Committee is given the responsibilities to draw up clear guidelines for regulating outside practice work and to determine and review the appropriate level of levy

for outside practice earnings at departmental/faculty level. In determining levy, the following principles shall be adhered to:

- (a) The overall development needs and the financial capacities of the department/faculty should be taken into account in the determination of levy.
- (b) Adequate incentive should be given to the teacher in undertaking outside practice.
- (c) The appropriate range of levy to be applied should be from 0% to up to 50% of the teacher's outside practice annual gross earnings. The Faculty Outside Practice Sub-Committee shall determine a flat levy within this range.

The level of levy shall be reported via the Faculty Human Resource Committee to the Council on a regular basis.

10. There shall be no upper earnings limit in respect of outside practice work by teachers. Each teacher shall, however, be required to pay the levy to the department/faculty as determined by the Faculty Outside Practice Sub-Committee.

11. The outside practice year shall begin on April 1 and end on March 31. Each teacher who has undertaken outside practice shall submit an annual report, following the end of the outside practice year in which the work was undertaken, to the Faculty Outside Practice Sub-Committee, within one month, i.e. by April 30. The annual report shall list all the outside practice undertaken, the time spent on such work, the details of remuneration received/receivable, and the levy to be payable to the department/faculty.

12. The Faculty Outside Practice Sub-Committee shall endorse the annual reports submitted by the teachers and forward them to the Director of Finance via the Faculty Human Resource Committee by May 31 for submission to the Council.

13. These reports shall subsequently be used by the Director of Finance to calculate such sums as are due to the department/faculty as determined by the Faculty Outside Practice Sub-Committee.

Clinical Outside Practice

14. Medically qualified teachers on Terms of Service I or Terms of Service I (Clinical Medical Staff) in a clinical department of the Faculty of Medicine or dentally qualified teachers in the Faculty of Dentistry (a 'clinical teacher') shall be permitted to engage in clinical outside practice in accordance with the conditions in paragraphs 15 and 16, additional to those set out above.

15. The Faculty Outside Practice Sub-Committee in the Faculty of Medicine and the Faculty of Dentistry shall draw up clear guidelines for regulating clinical outside practice and shall determine the appropriate level of levy to apply to clinical outside practice income. While flexibility should be accorded as necessary to facilitate clinical outside practice, the Faculty Outside Practice Sub-Committee must ensure that the following conditions are adhered to:

- (a) Clinical outside practice (including laboratory tests) shall normally be restricted to consultative practice, i.e. as referred by other practitioners of the medical and dental professions or by other institutions, and appropriate to the consultant's own expertise.
- (b) Clinical outside practice shall be limited to those clinical teachers who have specialist status as determined by their having at least 7 years' post-registration experience in the specialty concerned; who possess recognised higher professional qualifications; who are accredited by the Academy of Medicine; and who have obtained the approval of the Head of Department/Dean of the Faculty.
- (c) Clinical outside practice shall be organised on a departmental/faculty basis; the departmental secretary shall issue bills on the direction of the Head of Department/Dean of Faculty in

consultation with the clinical teacher concerned, and a copy of each bill shall be sent to the Director of Finance.

- (d) The place of practice shall be recorded by the clinical teacher and shall normally be confined to the teaching hospital complex for both in-patient and ambulatory care services. Prior approval must be sought from the Outside Practice Sub-Committee if the clinical outside practice has to take place in other hospitals for operational reasons.
- (e) The time of practice shall be recorded by the clinical teacher and shall normally be no more than 2 half-day sessions per week.
- (f) Clinical teachers may be permitted to receive part of the income derived from clinical outside practice. The income available for distribution shall be net of the appropriate expenses incurred by the department/faculty and the charges levied by the Hospital Authority. The earnings shall be calculated annually, on March 31 each year. To ensure that the bulk of the outside practice income is used to support the academic activities of the department/faculty, clinical teachers shall only be permitted to receive up to a maximum of 50% of the net outside practice annual income generated from clinical outside practice. The remaining income shall be credited into the departmental/faculty outside practice accounts.
- (g) Where a clinical teacher does not receive income direct from outside practice work, the Head of Department/Dean of Faculty shall allocate from the net income a sum not exceeding 50% of the net outside practice annual income generated by the teacher into an individual staff account to be opened for the teacher and to be earmarked specifically for his or her own use, subject to the Head's/Dean's endorsement, for the teacher's professional/staff development purposes, such as attending conferences, subscribing to professional journals, purchasing computer equipment, appointing research support staff, etc.

16. The Head of each clinical department in the Faculty of Medicine shall present to departmental meetings annual budgets for spending the department's share of outside practice income, and shall also report annually on such spending. The Dean of the Faculty of Dentistry shall do likewise at the appropriate Faculty meetings.

Medically Qualified Teachers Not in Clinical Departments

17. A medically qualified teacher not in a clinical department shall be permitted to undertake outside practice subject to the provisions set out in paragraphs 1 to 13 above, provided that he shall not engage in clinical practice as distinct from laboratory tests except in a consultative capacity.

Departmental Expenditure

18. Income received by the department/faculty from outside practice shall be used for any of the following types of expenditure:

- (a) equipment;
- (b) books and journals for departmental research;
- (c) travel by teachers to and from and attendance at conferences;
- (d) fees for attending training courses;
- (e) subsistence allowances at training courses;
- (f) subsistence allowances at conferences;
- (g) entertainment of official visitors at departmental level, in accordance with normal University standards for such expenditure;
- (h) support staff appointments;

- (i) subscription fees for professional institutes;
- (j) honoraria and passages for departmental visitors;
- (k) travel by research students and research assistants; and
- (l) such other expenditure as may be agreed by the Director of Finance with the Administering Authority in special cases.

Contravention

19. Failure by a teacher to comply with the outside practice regulations above may result in a teacher being not permitted to engage in consultative or direct practice for a defined period or indefinitely. The contravention of these regulations may also be considered by the Council to be "misconduct in an official capacity", for the purposes of determining whether there is good cause for the termination of that teacher's appointment.

April 2005

THE UNIVERSITY OF HONG KONG
BOARD OF THE FACULTY OF MEDICINE

Outside Practice

1. The Council has approved a new set of “Regulations Governing Outside Practice by Teachers” (document 532/305 amended: Annex I) to take effect from April 1, 2005. The Council has asked each Faculty to set up its Faculty Outside Practice Sub-Committee to draw up guidelines for regulating outside practice and to determine the appropriate level of levy. The terms of reference for the Faculty Outside Practice Sub-Committee are in Annex II (document 127/105).
2. In relation to non-clinical outside practice, the Sub-Committee has agreed that the Faculty should follow the University’s past practice and charge the same level of levy that the University used to charge, which is listed as follows:
 - (a) For gross earnings of up to 20% of the non-clinical professorial average annual salary (i.e. 20% of \$1,434,060 at 1.4.2005 level = \$286,812):

15% of the gross earnings
 - (b) For gross earnings in excess of 20% and up to 50% of the non-clinical professorial annual salary (i.e. \$286,813 to 717,030):

30% on that portion of gross earnings
 - (c) For gross earnings in excess of 50% of the non-clinical professorial annual salary (i.e. more than \$717,031):

60% on that portion of gross earnings

In accordance with the University’s past practice, the sum thus levied shall be divided in the following proportion:

$\frac{1}{3}$ to the Faculty
 $\frac{2}{3}$ to departments
3. With regard to clinical outside practice income, the Sub-Committee has agreed to uphold the principle that clinical teachers should not be permitted to receive any income generated from outside practice and that clinical outside practice should normally be confined to the teaching hospital complex. Clinical outside practice would be allowed to take place in other hospitals only for operational reasons when it is organized on Faculty or departmental basis. It would also be allowed on an *ad hoc* basis for emergency reasons in other hospitals provided that reports with justifications would be submitted to the Head of Department as soon as reasonably practicable after the practice has been rendered. In accordance with the Council regulation, clinical outside practice should continue to be organized on a department/faculty basis and not as *ad hoc* individual clinical activity.
4. In accordance with the University’s past practice, 10% of the net income derived from clinical outside practice should be credited to the Faculty account for general development of the Faculty and to cover the cost of the University’s medical malpractice insurance policy. With regard to the remaining clinical outside practice income, the Sub-Committee has agreed that the departmental outside practice account

and the individual staff account would equally share the cost of medical defense subscription which is currently paid from the University's central account. While the remaining 90% of the clinical outside practice income would be credited to the department concerned, it had been stipulated in the Regulations that the department shall allocate from the net income a sum not exceeding 50% of the net outside practice annual income generated by the teacher into an individual staff account to be opened for the teacher and to be earmarked specifically for his or her own use, subject to the Head's endorsement, for the teacher's professional staff development purposes. At the suggestion of the Dean and Heads Advisory Committee, it has been agreed to stipulate as a regulation that a minimum of 25% of the net clinical outside practice annual income be allocated to the individual staff account. The above guidelines and arrangements will be reviewed by the Faculty Outside Practice Sub-Committee in two years' time.

September 14, 2005
outsidepractice/dh paper/3

CONFLICT OF INTEREST

A conflict of interest situation

1. A conflict of interest situation arises when the personal interest of an appointee competes or conflicts with the interest of the University. Such a situation can lead to divided loyalty and can tarnish the University's reputation or even result in corruption.
2. A conflict of interest situation is likely to arise when an employee's loyalty to the University conflicts with his loyalty to:
 - (a) his family and other relatives;
 - (b) his personal friends;
 - (c) the clubs and societies to which he belongs;
 - (d) his professional colleagues in other organisations; or
 - (e) any person to whom he owes a favour or is obliged in any way.
3. The University has no wish to lessen the many legitimate loyalties that will be felt by an employee to his family, friends, etc. However, it is also essential that all employees should be honest and impartial in their official dealings and in their relationship with their students and staff. He must not use his position in the University, nor any information made available to him in his capacity as a University member of staff, to benefit himself or his family, financially or otherwise, or to favour his relatives or friends or any other group of people with whom he has personal or social ties. He should also avoid putting himself in a position in which he might arouse any suspicion of dishonesty, or of using his official position to benefit himself or favour his family and friends.

Responsibility of the appointee

4. It is the appointee's responsibility to avoid engaging in situations that may lead to or involve conflict of interest. He should, therefore, ensure that his dealings with students, colleagues, subordinates, suppliers and contractors do not place him in a position of obligation that may lead to a conflict of interest.
5. In cases where an appointee or his immediate family might have engaged or considered to have engaged in activities or business ventures that might have existing or potential conflict with the interest of the University, he must make full disclosure of such interest in writing to his Head of Department (for a Head of Department, to the Dean of the Faculty), in the first instance, who will advise him on the appropriate course of action to take.
6. In tendering for contracts for service/goods, full disclosure by the appointee of his interest must be made to the Director of Finance if the former, or his close friend or family, owns or has financial interests in a firm supplying service or material and which wishes to bid for the award of a contract from the University.

7. In recruiting staff, an appointee who is involved in any part of a staff recruitment exercise must declare his interest to the Chairman of the Selection Committee; or if the Chairman himself has a personal relationship with any individual candidate, he must declare this to the Pro-Vice-Chancellor (Planning & Resources). In order to maintain his impartiality in the matter, the appointee will be excluded from participating in any stage of the recruitment exercise.

8. An appointee should, at all times:

- (a) refrain from having any financial interaction with any supplier, contractor or other parties that have business dealings with the University;
- (b) declare any potential or personal interest in any matter in which an appointee may be involved when discharging his duties and responsibilities in the University;
- (c) decline to provide assistance, advice or information to relatives, friends, students, etc. in connection with one's work where this would give the recipient an unfair advantage over others. Where the assistance or advice can be given legitimately, the person seeking the advice should be directed to contact the Head of Department in the normal channel. A Head of Department, in acceding to legitimate requests by friends, students or any persons related to him, is advised to make a note on the relevant file on the details of the request, the information given and the relationship with the persons concerned; and
- (d) avoid putting oneself in a position of obligation to anyone who has or may have, official dealings with one's department.

9. In making investments, all employees should consider carefully before acquiring any investment or other interest whether this could lead to a real or apparent conflict with his official duties. The word "investment" means any investment, shareholding, direct or indirect interest in any company, or undertaking registered or carrying on business in Hong Kong and includes any interest in land or buildings in Hong Kong. It also covers any investment held by an employee in the name of his/her spouse or any other person. A conflict of interest situation is deemed to have arisen if an employee is able to profit financially as a result of information obtained or of a decision made in his official capacity. In cases of doubt, an employee should seek the advice of his Head of Department before acquiring any investment.

10. Failure to make a declaration in situations where there is apparent conflict of interest is construed as a serious act of misconduct and may render the appointee liable to disciplinary action.

August 1997

THE UNIVERSITY OF HONG KONG

To: Head, Staffing Section,
Registry,
The University of Hong Kong.

Annual Disclosure Form on Conflict of Interest

- A. Please provide the following information with respect to each private/public company (incorporated or unincorporated), or other organization of which you are either a director, or a trustee, or an officer, or a proprietor, or a partner, or a shareholder with a significant financial interest, or an employee, or an agent, or a consultant, or assume a leading role in the management of company/organization. (You need not answer with respect to government committees, community, political, academic, charitable, religious, social or professional nonprofit organizations.)

| <u>Name of Organization</u> | <u>Address of Organization</u> | <u>Position</u> |
|---------------------------------|------------------------------------|-----------------|
|---------------------------------|------------------------------------|-----------------|

- B. I and my immediate family (i.e. spouse or children) have/do not have* a financial interest in any private/public company or other organisation which has, or has had, in the past twelve months a relationship with the University (e.g. as a vendor, licensee, donor, research sponsor). If yes, please give details:

Name: _____ Department: _____

Signature: _____ Date: _____

Note:

- (i) Please read the Guidelines on Conflict of Interest in the Staff Manual booklet. A copy of the Guidelines is attached for your reference.

- (ii) Please use separate sheets if space is not enough.

December 17, 1998