

LCQ5: Medical services provided to persons in custody by Correctional Services Department

Following is a question by the Hon Leung Yiu-chung and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (July 4):

Question:

It has been reported that a person in custody (PIC) lodged a judicial review in 2016 against the decision of the Correctional Services Department (CSD) to refuse to arrange for him to receive Chinese medicine (CM) diagnosis and treatment, but he died of illness before the case was tried. Last month, the Coroner's Court held an inquest into the cause of death of that PIC and the jury recommended that the authorities consider providing CM diagnoses and treatments for PIC. In this connection, will the Government inform this Council:

- (1) of the respective numbers of applications from PICs for receiving CM diagnoses and treatments which were received, approved and rejected by the authorities in each of the past 10 years, and the criteria adopted for deciding whether to approve such applications;
- (2) given that the Chinese Medicine Ordinance has put in place a regulatory regime for CM and established the professional status and standards of CM practitioners, whether the authorities will allow PICs to choose to receive CM diagnoses and treatments; if so, of the details; if not, the reasons for that; and
- (3) given that the aforesaid PIC had requested to receive CM diagnosis and treatment in addition to western medicine diagnosis and treatment, but CSD requested that PIC to prove that a combination of Chinese and western medicine diagnoses and treatments would not create an adverse effect, whether the authorities will offer PIC medical advice and support according to the medical needs of individual PICs, and ensure that they can safely receive CM diagnoses and treatments or a combination of Chinese and western medicine diagnoses and treatments; if so, of the details; if not, the reasons for that?

Reply:

President,

The Correctional Services Department (CSD) is committed to providing a secure, safe, humane, decent and healthy custodial environment for persons in custody (PICs). As far as the health of PICs is concerned, CSD ensures that necessary and appropriate medical services are provided to all PICs in

accordance with the Prison Rules (Cap 234A of the Laws of Hong Kong).

According to Rule 143(a) of the Prison Rules, the "Medical Officer shall have the medical charge and shall be responsible for the treatment when sick of all the prisoners in a prison". Rule 144 of the Prison Rules also stipulates the Medical Officer's duty to prisoners, including seeing every day PICs who complain of illness and reporting in writing to the Superintendent of the correctional institution their fitness or otherwise for labour; making daily visits to the sick in the hospital of a correctional institutional; making examinations of newly admitted PICs etc. The Medical Officer shall also frequently examine the washing-places, baths and other provision for purposes of cleanliness and sanitation to ensure the efficient working thereof, and report all defects to the Superintendent.

Every correctional institution has a hospital or sick bay where medical services are provided to PICs by Medical Officers seconded from the Department of Health (DH) and correctional staff with professional nursing qualifications. PICs who require specialist treatment, intensive care or surgery will receive treatment in public hospitals. Moreover, medical specialists from the Hospital Authority (HA) and DH will visit correctional institutions on a regular basis to provide PICs with specialist consultation and treatment.

Based on the information provided by CSD and the Food and Health Bureau, my consolidated reply to the three specific questions raised by the Hon Leung Yiu-chung is as follows:

Medical Officers of DH of correctional institutions are responsible for providing medical services to PICs. According to Rule 143 of the Prison Rules, the Medical Officer shall have the medical charge and shall be responsible for the treatment when sick of all the prisoners in a prison. Therefore, the Medical Officer of a correctional institution assumes full responsibility of the treatment of all PICs when sick. He must make professional judgment and assumes responsibility for his judgment, including legal responsibilities. Thus, when considered necessary, he will refer sick PICs to receive medical services under Hong Kong's public healthcare system, including accident and emergency services, specialist out-patient and in-patient services provided by HA, as well as medical examination and treatment provided by specialist clinics under DH. This is to fulfil the Medical Officer's professional duties and legal responsibilities as stipulated by the Prison Rules. At present, Chinese medicine services are not part of the regular services of HA and DH. Medical Officers of DH of correctional institutions will not refer PICs to receive private medical services, including Chinese medicine services.

All along, appropriate medical services are provided in correctional institutions to take care of the health of PICs. However, if individual PICs prefer to receive treatment other than western medicine treatment and make such requests, CSD will consider them on a case-by-case basis, taking into account the professional advice of the Medical Officer of the correctional institution. Since the Medical Officer has a statutory duty for the health

and the treatment of PICs when sick in accordance with Rule 143 of the Prison Rules, when handling PICs' applications for receiving Chinese medicine treatment besides western medicine treatment, he has to consider various factors cautiously and fully, including whether the applied-for treatment is necessary, whether its efficacy and safety is medically-proven, and whether it would conflict with the western medicine treatment the PIC is receiving and thus affect his health etc. For example, if a PIC has a common cold or flu, as the medical treatment provided by the institution is already safe and effective, the Medical Officer of the institutional will not recommend the PIC to receive Chinese medicine treatment. Take another example. When considering an application for Chinese medicine treatment by a PIC with a certain chronic illness, the Medical Officer of the institution must first understand the conditions of the patient and the efficacy of the treatment received. Then he must also understand whether the applied-for medicine for treatment is safe, whether it would conflict with other medicine, particularly the medicine prescribed under western medicine treatment, whether the applied-for medicine would produce any side effects and what they are, and the treatment for such side effects etc. The Medical Officer must also consider whether the Chinese medical practitioner treating the PIC is willing to be on call. The above are only some examples to illustrate the statutory and legal duties of the Medical Officer of the correctional institution. The Medical Officer must carefully and cautiously consider whether to allow a PIC to receive treatment other than western medicine treatment, as it concerns the health and life of the PIC.

Based on records, CSD has received application by one PIC to receive Chinese medicine diagnoses and take Chinese medicine in the past 10 years. Based on the professional advice of the Medical Officer and relevant legal advice, CSD approved Chinese medical practitioners to diagnose the PIC in the correctional institution. After diagnoses, the PIC applied to take Chinese medicine. In considering that application, the Medical Officer of the correctional institution considered the abovementioned factors carefully, and requested more detailed information for follow-up. After careful considerations by the Medical Officer and CSD, the application by the PIC to take Chinese medicine was not approved. Nevertheless, the Medical Officer of the correctional institution continued to provide suitable western medicine treatment to him all along.

In June this year, the Coroner's Court held a death inquest in relation to that PIC. The jury concluded unanimously that the death was a "natural death" and put forward an additional recommendation. They recommended the authorities to consider providing Chinese medicine services as an option for prisoners in prison hospitals. CSD is examining the jury's recommendation and liaising with DH and HA for this purpose. They must also carefully consider the aforementioned laws and responsibilities, as well as other relevant complex issues.

The Government and HA are conducting a study on the positioning of Chinese medicine in the local healthcare system. The Security Bureau and CSD will monitor the result of this study and whether there are matters requiring follow-up.

Thank you, President.