

LCQ6: Making the “Three Instruments of Peace”

Following is a question by the Hon Doreen Kong and a reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (June 28):

Question:

It has been reported that the elderly population in Hong Kong will increase to 24.6 per cent in 2026, and by then Hong Kong will become a "super-aged society" as defined by the World Health Organization. However, a survey has found that over 80 per cent of the respondents have not made the "Three Instruments of Peace" (i.e. an enduring power of attorney (EPA), an advance medical directive (AMD) and a will), so as to make adequate end-of-life preparation. In this connection, will the Government inform this Council:

(1) whether it knows the respective numbers of EPAs signed under the witness of public hospital doctors as well as valid AMDs received and executed by public hospitals in each of the past five years; of the Government's comprehensive publicity plans to enhance public awareness of the "Three Instruments of Peace" as well as life and death education;

(2) of the progress of and detailed timetable for taking forward the legislative proposals relating to the Continuing Powers of Attorney Ordinance and the Advance Decision on Life-Sustaining Treatment Bill; and

(3) whether it has plans to properly store signed documents on the "Three Instruments of Peace" by electronic means or by setting up a central repository in the future?

Reply:

President,

Having consulted the Judiciary, the Health Bureau (HHB), the Home and Youth Affairs Bureau, the Education Bureau (EDB) and the Department of Justice (DoJ), my consolidated reply to the Member's question is as follows:

(1) In the past five years from 2018 to 2022, a total of 8 032 advance medical directives (AMDs) were made in the Hospital Authority (HA), ranging from 1 455 to 1 742 per year, as detailed in Annex 1.

As the creation of an enduring power of attorney (EPA) requires witnessing by a solicitor, the HA generally does not take part in matters relating to the creation of an EPA and does not maintain the number of valid EPAs. In addition, the HA does not maintain the number of AMDs executed.

According to the Enduring Powers of Attorney Ordinance (EPA Ordinance)

(Cap. 501), the registration of an EPA with the High Court is the final formal procedure in relation to an EPA as required by the law. According to the information of the High Court, a total of 4 012 EPAs were registered in the past five years from 2018 to 2022, increasing from 440 in 2018 to 1 401 in 2022, as detailed in Annex 2.

Life and death education aims at breaking the taboo surrounding death, helping people to view death in a positive light and learn about will making, EPA making and advance care planning. Various relevant departments have been carrying out promotion work. The Elderly Health Service (EHS) of the Department of Health promotes public education on life and death issues through webpage, publications, online videos, etc. The content of the webpage includes viewing death from a positive perspective and treating birth, ageing, illness and death as inevitable stages of life. If planning in different areas can be done in advance, better preparations can be made for ourselves and our families. The EHS also conducts health talks for elderly persons and their carers on ageing, life and death education and bereavement at residential care homes for the elderly, elderly centres and the Elderly Health Centres through its multi-disciplinary team including nurses and allied health professionals. From 2008 to 2022, a total of 2 236 health talks related to these topics were conducted.

In parallel, the EDB has been promoting life education in primary and secondary schools via updating curriculum guidelines, developing learning and teaching resources, providing professional development programmes for teachers, etc, to support schools to help students understand the journey and meaning of life through learning experiences within and beyond the classroom, so as to cultivate proper values and positive attitude towards life.

In addition, the Hong Kong Public Libraries collaborate with organisations to organise talks on life and death education every year, including talks on the "three instruments of peace" at times. The Social Innovation and Entrepreneurship Development Fund (SIE Fund) (Note 1) also subsidises ventures related to life and death education and the "three instruments of peace".

Regarding the promotion of the use of EPAs, the DoJ, through the Enduring Powers of Attorney (Amendment) Ordinance 2011, gives effect to the Law Reform Commission (LRC)'s recommendation to relax the requirement for the execution of EPA, so as to allow a donor and a solicitor to sign an EPA within 28 days after it has been signed by a registered medical practitioner. The Amendment Ordinance also gives effect to another LRC's recommendation to adopt a new statutory form and associated explanatory information presented in plain language and in a more user-friendly format. The DoJ also provides practical details relevant to EPAs and promotes the use of EPAs through radio programmes and an Announcement in the Public Interest. In addition, the DoJ sponsored the Community Legal Information Centre website of the University of Hong Kong to prepare content on EPA-related topics.

Regarding the promotion of the use of wills, according to section 3 of the Wills Ordinance (Cap. 30), a person may by will, executed in accordance with that Ordinance, dispose of his/her property. The Government has compiled

various publications on inheritance matters which are available for public access at the District Offices and the Estate Beneficiaries Support Unit of the Home Affairs Department, and can be downloaded online. The Government will keep in view the relevant information in the materials to meet the needs of the community. There are also schemes funded by the Government to provide information related to will making, e.g. the Free Legal Advice Scheme administered by the Duty Lawyer Service.

(2) The LRC published the Report on "Enduring Powers of Attorney: Personal Care" in July 2011 (2011 Report), which recommended the extension of the scope of an EPA to cover not only decisions on a donor's property and financial affairs, but also decisions on a donor's personal care. The DoJ set up an inter-departmental working group to study the 2011 Report and launched a public consultation on the draft Continuing Powers of Attorney Bill to implement the recommendations of the 2011 Report in December 2017. The DoJ briefed the Legislative Council (LegCo) Panel on Administration of Justice and Legal Services on the consultation in January 2018. Subsequently, the Government reported the implementation of the 2011 Report to the Panel annually. The Government including the DoJ and the Labour and Welfare Bureau is deliberating the follow-up actions.

As for AMDs, they are important policy measures to respect the choice of patients and improve the quality of life of the terminally ill. An AMD generally refers to a written statement in which a person indicates, while mentally capable, what life-sustaining treatment he/she would refuse when he/she is no longer capable of doing so.

Subsequent to two rounds of public consultation in relation to the end-of-life care legislative proposals, the Government is currently drafting the Advance Decision on Life-Sustaining Treatment Bill with a view to introducing the Bill within 2023. The HHB consulted the LegCo Panel on Health Services on the legislative framework of the relevant legislative proposals in May 2023.

(3) The Government will review and explore the feasibility of providing e-services from time to time. As for AMDs, the Government will retain the principles as recommended in the public consultation report, including the concept of "cautious making, easy revoking" (Note 2), in exploring the feasibility of using electronic means, apart from using paper means, to make, store and revoke an AMD.

Note 1: Launched in 2013, the SIE Fund seeks to drive social impact in alleviating poverty and social exclusion as well as fostering the well-being and cohesion of the society by promoting social innovation and nurturing social entrepreneurship.

Note 2: "Cautious making, easy revoking" refers to stringent safeguards for making AMDs while facilitating revocation.