



**Guidance Notes for Considering Inappropriateness
for a Person to be Issued with a Letter of Exemption for Small Practice Clinic to
Carry on Practice in a Clinic Without a Licence**

Introduction

Under the Private Healthcare Facilities Ordinance (“PHFO”), a person (including an individual who is a sole proprietor, a partnership or a company) who operates or intends to operate a small practice clinic (“SPC”) may ask the Director of Health (“the Director”) for a letter of exemption for the clinic, which permits the person to operate the SPC without a licence. Pursuant to Section 43(4) of the PHFO, the Director must refuse to issue a letter of exemption if the Director considers it inappropriate for the person making the request to carry on the practice in the clinic without a licence.

This document outlines the criteria and matters that the Director will normally consider in determining inappropriateness. The criteria and matters set out in this document are not intended to be exhaustive, and should be read in conjunction with the relevant provisions of the PHFO. This document also does not constitute legal advice. Operators should seek professional advice if they have any questions relating to the interpretation of the relevant provisions of the PHFO or other Ordinances.

Principles in the consideration

In considering whether it is “inappropriate” for a person making the request to carry on the practice in the clinic without a licence, relevant factors may include (i) a history of PHFO related offence; (ii) professional incompetency; (iii) matters related to business arrangement or financial status; and (iv) other reasons resulting in the Director considering it inappropriate. When the person of an SPC making the request is considered inappropriate to carry on the practice in the clinic without a licence having regard to the above factors, in general the decision will remain valid for a period up to three years, depending on the nature and severity of the circumstances.

Factors considered in determining inappropriateness for a person making the request to carry on the practice in the clinic without a licence

Relevant factors	Duration for the decision to be valid
Contravention of / conviction of offences under PHFO	
Operator(s) contravenes or has contravened PHFO resulting in revocation of a letter of exemption of an SPC	1 year from the date of the revocation
Operator(s) have been convicted of any offences under the PHFO, for which the person has been sentenced to imprisonment (where suspended or not)	3 years from the date of the conviction
Operator(s) have been convicted of any offences under the PHFO, for which the person has been fined at level 6 or above	1 year from the date of the conviction
Professional competence	
Operator(s) have been found guilty of professional misconduct by DCHK, MCHK or similar authorities outside Hong Kong, resulting in removal from the register	Until restoration to the register
Operator(s) have history of non-compliance with the codes of practice / condition of licence / direction issued under PHFO resulting in suspension or cancellation of licence of a facility	3 years from the date of suspension or cancellation of licence of the facility
Business arrangement / financial status	
The individual has become bankrupt or made a voluntary arrangement with the individual's creditors within the meaning of the Bankruptcy Ordinance (Cap. 6) (if the person that operates, or intends to operate, the clinic is an individual as a sole proprietor)	Until the bankruptcy is discharged
The company has commenced to be wound up or dissolved (if the person that operates, or intends to operate, the clinic is a company)	Not applicable*
Other reasons	
The person making the request under Section 42 in relation to the clinic has made a false statement in the request, or in any information or document required by the Director under this Ordinance	Each case to be considered on an individual basis
The Director considers that the clinic has been operated in a way contrary to the public interest	
The Director considers it otherwise inappropriate for the person making the request to carry on the practice in the clinic without a licence	

DCHK: The Dental Council of Hong Kong; MCHK: The Medical Council of Hong Kong

* Such company is considered inappropriate to be issued with a letter of exemption for small practice clinic.