

EO Files (September 2015)

“THINGS WE DO, PEOPLE WE MEET - Reflections in Brief”

Celebrate the family - in all its diversity

York Chow says as our notion of what constitutes a family changes, so too must our laws, to ensure that those living outside mainstream norms do not suffer discrimination

Like most people in Hong Kong, I grew up in a traditional family that values love, care and unity, particularly during adversities. I have always looked at the family unit as society's bedrock, upon which one can grow to be his or her best self.

As a doctor, I also recognise the importance of family support during a patient's recovery. I have seen how family members rally to make difficult medical decisions for their loved ones. In that crucial moment, the person making decisions on the patient's behalf should be someone they most trust, love and treasure – in short, the person they consider their family.

I must, therefore, applaud the government and Legislative Council members in not restricting the definition of “family”, particularly in emergencies, with the recent passage of the Electronic Health Record Sharing System Ordinance. Aside from creating an electronic system for patients' health information, the ordinance also defines who can be a “substitute decision maker” for patients unable to decide for themselves, such as if they are in a coma or mentally incapable.

In the original bill, the substitute decision maker was defined as “immediate family members” related to the patient by blood, marriage, adoption or affinity. However, some legislators argued that a person co-habiting with the patient should also have this right, and the government sensibly agreed. Thus, in the enacted ordinance, a “substitute decision maker” is more reasonably defined to also include “a person residing with the healthcare recipient.”

This shows both foresight and pragmatism on the part of the government and LegCo. Over the years, society has undergone enormous transformation. Many couples choose not to or cannot marry, but are in committed, de facto relationships like marriage. Being unmarried does not mean that the bond between the partners is any less secure or lasting. By allowing a wider definition of “family members”

to include cohabiting couples, our policymakers are wisely adapting to the shifting reality of what it means to be a family.

This also builds on both overseas and local precedents. For instance, under Hong Kong's Domestic and Cohabitation Relationships Violence Ordinance, cohabiting couples, both same-sex and opposite-sex, are explicitly protected.

Hong Kong, as a society, must consider how to equally safeguard all families. We are all someone's family, and we need to create a non-judgmental environment so that every family member can be loved and cared for.

Bearing this in mind, the Equal Opportunities Commission consulted the public last year on issues relating to protecting de facto couples from discrimination, as part of our comprehensive review of the discrimination law.

First, we looked at whether the protection against marital status discrimination under the Sex Discrimination Ordinance should also expressly cover de facto relationships, in addition to being single, married, divorced or widowed.

Second, we asked whether the Family Status Discrimination Ordinance's protection should be expanded to cover family care responsibility arising out of de facto relationships. Currently, "family status" is specified as the responsibility to care for "immediate family members" who are related by blood, marriage, adoption or affinity. This means, for example, a person is protected from discrimination if he has to care for his sick spouse, but not if they are in a de facto relationship.

But beyond reviewing the law, we must open our hearts. The passage of the Electronic Health Record Sharing System Ordinance is significant because it is another step towards recognition of the diversity among our families, which is crucial for the protection of their well-being. Stigma and discrimination can wreak real harm upon one's mental health, self-esteem, and sense of belonging. It also obstructs their equal participation in society and access to vital services.

Rather than judging, we must support each other to be the best family members to those we love, and teach our children the values of diversity and inclusion. If we truly believe that families are society's building blocks, then we must protect them in their many forms.

Dr. York Y.N. Chow
Chairperson, Equal Opportunities Commission

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