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***By fax and email***  
***Tel.:*** 2973 8103  
***Fax:*** 2840 0467

21 March 2006

Ms Doris CHAN  
Legislative Council Secretariat  
3/F Citibank Tower  
3 Garden Road  
Hong Kong

Dear Ms Chan,

**Bills Committee on Dentists Registration (Amendment) Bill 2005**  
**Meeting on 28 March 2006**

————— Thank you for your letter dated 17 January 2006. Our response to the issues set out in your letter, following the numbering adopted in your letter, is as follows-

(a) After consulting the Dental Council of Hong Kong (the Council), we agree to introduce a Committee Stage Amendment to allow an applicant seeking inclusion of his name in the Specialist Register to appeal to Court against the Council's rejection of his application.

(b) The Council has no objection to adding a fine at an appropriate level for the conviction of fraudulent registration, as an alternative to the existing penalty of imprisonment for three years set out in the proposed section 24. That said, according to our legal advice, a change to the level of penalty associated with the concerned offence falls outside of the scope of the Bill. We will consult the Legal Policy Division of the Department of Justice to see whether a change of penalty is suitable from a legal policy point of view, and if

so, include the relevant amendment in the revamp exercise of the Dentists Registration Ordinance (DRO) as appropriate.

(c) The penalty for falsely pretending to be or taking or using the name or title of a dentist under the proposed section 25 is the same as that for the similar offence in the Medical Registration Ordinance (Cap. 161, s28(1)), whereas the penalty for the similar offence in the Social Workers Registration Ordinance (Cap. 505, s35) is a fine at level 5 only. We consider that it is appropriate to impose a heavier penalty for one wilfully or falsely pretending to be a medical practitioner or dentist than that associated with one pretending to be a social worker, because public health is at stake in the former offence.

(d) The Council cannot trace the intent of section 14(2), which was enacted in 1959. The Council is not aware of the provision being invoked against any person. The Council notes that there is already a section 25 to deal with persons falsely pretending to be a dentist, and there does not seem to be a strong public health reason to keep section 14(2). We therefore would consider repealing the existing section 14(2) in the revamp exercise of the DRO. A similar provision is also found in the Supplementary Medical Professions Ordinance (Cap. 359).

(e) The Council will need about three months after passage of the Bill to complete the necessary administrative arrangements. The key issues include setting up of the new Education and Accreditation Committee, design and printing of the new application form and certificate, preparation of the Specialist Register registration details by the Central Registration Office of the Department of Health, invitations to the subject dentists for registration, gazettal, and announcement of the new arrangements to all registered dentists and dental professional bodies. We can arrange commencement of the Bill after these preparations have been completed.

Separately, a set of draft Committee Stage Amendments is enclosed for members' considerations. The CSAs include –

- an amendment to the proposed section 2(4) to enhance its clarity;
- an amendment to the proposed section 12B(3)(b) to better articulate the intent about the condition for inclusion in the Specialist Register;

- amendments to allow an applicant seeking inclusion of his name in the Specialist Register to appeal to Court against the Council's rejection of his application;
- amendments to the proposed section 29 to enhance the clarity about the Chairman of the Preliminary Investigation Committee's power to ascertain whether a complaint or information involves a suitability issue, and if so, refers to the proposed Education and Accreditation Committee;
- consequential amendments necessitated by the Statute Law (Miscellaneous Provisions) Ordinance 2005.

Yours sincerely,

(Jeff LEUNG)  
for Secretary for Health, Welfare and Food

Encl.

# DENTISTS REGISTRATION (AMENDMENT) BILL 2005

## COMMITTEE STAGE

### Amendments to be moved by the Secretary for Health, Welfare and Food

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) The following is added after paragraph (a) –</p> <p>“(aa) in subsection (3), by adding “and (2A)” after “22(2);”.</p> <p>(b) In paragraph (b), by renumbering the proposed section 2(3) and (4) as section 2(5) and (6) respectively.</p> <p>(c) In paragraph (b), in the proposed section 2(6), by deleting everything after “Register” where it first appears and substituting a full stop.</p>
10	In the proposed section 12B(3)(b), by deleting “of good character” and substituting “competent in the specialty”.
17(c)	In the proposed section 22(2A), by deleting everything after “concerned” and substituting “or, in the case of an appeal made to the Court of Appeal against the order under section 23, before the appeal is finally determined.”.
18	<p>By deleting the clause and substituting –</p> <p><b>“18. Appeals</b></p> <p>Section 23 is amended –</p> <p>(a) by repealing subsection (1) and substituting –</p> <p>“(1) The following person may appeal to the Court of Appeal –</p>

- (a) any person whose name has been ordered not to be entered in the General Register under section 9(3);
- (b) any registered dentist whose application under section 12B(1) to have his name included in the Specialist Register is rejected by the Council;
- (c) any registered dentist who is aggrieved by an order made in respect of him under section 15, 15A(2) or 18,

and the Court of Appeal may affirm, reverse or vary the order or decision appealed against.”;

- (b) in subsection (3), by repealing everything after “(Cap. 4)” and substituting a full stop;
- (c) by adding –

“(3A) Despite subsection (3), the Court of Appeal has no power to –

- (a) hear any appeal against an order made under section 9, 15A(2) or 18 unless notice of the appeal was given within 1 month of the order being served in accordance with section 22(1);
- (b) hear any appeal against a decision made by the Council to reject an application under section 12B(1) unless notice

of the appeal was given within 1 month of the notice of the rejection being given under section 12B(11).”.”.

22(b)

By deleting subparagraph (i) and substituting –

“(i) by adding –

“(ba) the ascertainment by the chairman of the Preliminary Investigation Committee as to whether a complaint or information about any registered dentist involves a suitability issue and the referral of such a complaint or information involving a suitability issue to the Education and Accreditation Committee;”.”.