

立法會
Legislative Council

LC Paper No. CB(2)1114/99-00
(These minutes have been
seen by the Administration)

Ref : CB2/BC/3/98

**Bills Committee on
Human Reproductive Technology Bill**

**Minutes of the eighteenth meeting
held on Thursday, 9 September 1999 at 10:45 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Cyd HO Sau-lan (Chairman)
Hon Michael HO Mun-ka
Dr Hon LEONG Che-hung, JP
Hon Ambrose LAU Hon-chuen, JP

Members Absent : Hon CHAN Yuen-han
Hon YEUNG Yiu-chung
Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP

Public Officers Attending : Mr Gregory LEUNG Wing-lup, JP
Deputy Secretary for Health and Welfare 1

Miss Kinnie WONG
Acting Principal Assistant Secretary for Health and Welfare (Medical) 3

Mr Rick CHAN
Assistant Secretary for Health and Welfare (Medical) 6

Dr Thomas CHUNG Wai-hung
Principal Medical and Health Officer (3)

Mr G A FOX
Senior Assistant Law Draftman

Ms Carman CHU
Senior Government Counsel

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Ms Joanne MAK
Senior Assistant Secretary (2) 4

I. Meeting with the Administration to continue clause-by-clause examination of the Bill

(LC Paper No. CB(2) 2763/98-99 (01))

Members continued the clause-by-clause examination of the Human Reproductive Technology Bill (the Bill) from clause 31(10).

Clauses 31(10) (- Secrecy) to 32 (- Disclosure in interests of justice)

2. Deputy Secretary for Health and Welfare 1(DSHW1) explained that clause 31(10) provided that a donor's identity could be disclosed in the case that the disclosure was necessary to save or significantly extend the life of an individual. A similar provision was made in clause 32(2). However, Dr LEONG Che-hung expressed objection to the proposed arrangements. He remained of the view that a donor's wish for keeping his identity confidential should be honoured and what was proposed in clause 31(10) would be unfair to the donor who would be put under very heavy moral pressure to accede to such a request. He was worried that such an arrangement would further deter people from coming forward to be donors. While he agreed that the welfare of the child born in consequence of a reproductive technology (RT) procedure should be safeguarded, he considered that this should not be done at the expense of the donor involved. He recalled that at the previous meeting, most members had supported that the donor's identity could be disclosed only if he had given consent to do so at the time of donation. Dr LEONG said he accepted that only in those cases where prior consent had been given, the Council on Human Reproductive Technology (the Council) or the licensee, in the interests of justice and welfare of the child, could seek the court's approval for disclosure of the donor's identity. However, for those cases where the donors disagreed, at the time of

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donation, to reveal their identities in the future, their wish should be honoured under all circumstances. The Chairman added that in the future, institutions which accepted donations of sperms (such as the Family Planning Association of Hong Kong) should provide more detailed explanations to donors especially on the issue of the disclosure of identity.

3. The Chairman suggested that consideration could be given to providing commissioning couples choices between donors who had given consent to reveal their identities under special circumstances later on and those who had not. Dr LEONG Che-hung expressed reservation about the practicability of the suggestion and pointed out that in actuality choices available to commissioning couples were very limited due to small number of donations.

4. DSHW1 sought members' views as to whether the Council should be authorized, upon passage of the Bill, to seek consent from donors who had ever made donations for disclosing their identities under the circumstances spelt out in clauses 31 and 32. Dr LEONG Che-hung considered that the proposed arrangements would arouse resentment of donors as they had been told at the time of donation that they would not need to bear any responsibility for the act of donation. The Chairman agreed with Dr LEONG and also expressed objection to the proposed arrangements.

Draft Committee Stage amendments (CSAs) proposed by the Administration
(LC Paper No. CB(2) 2149/98-99)

5. At the Chairman's invitation, Senior Assistant Law Draftsman (SALD) briefed members on the draft CSAs prepared by the Administration. He said that clause 30(2) was proposed to be amended by a CSA which specified that Register A would be keeping information relating to the provision of RT procedure involving the use of donated gametes or embryos.

6. As regards the proposed CSA to clause 32(1), SALD explained that it sought to stipulate that the court could not compel the Council to disclose the identity of the individual whose gametes had been used. In response to Dr LEONG Che-hung's question, SALD confirmed that the court had no power to compel the Council to reveal the identity of a donor under all circumstances. He explained that the purpose of clause 32(2) was only to restrict the power of the court to the effect that it could make the order mentioned in clause 31(1)(a) only if the court was satisfied that it was compelled to do so by the interests of justice.

7. DSHW1 advised that the Bill had set out under clause 31 the conditions under which the Council would disclose information in relation to the identities of the parties involved in a RT procedure. However, he agreed that the drafting of the clause was complicated and needed to be improved. SALD advised that the draft CSAs to that clause were better in terms of clarity.

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8. Referring to the draft CSAs to clause 31(3), Dr LEONG Che-hung expressed concern about the conditions subject to which information relating to the provision of a RT procedure for an identifiable individual could be disclosed. He considered that the conditions set out therein violated the consensus reached by members in previous discussions. Dr LEONG further proposed to add a subclause to specify that if a donor had already expressed disagreement at the time of donation to be contacted again in the future, the Council or any authorized persons would have no right under any circumstances to contact the donor. SALD responded that while he agreed to draft the proposed CSA, he considered that if the child born using the gametes donated by a donor was later found to have a genetic defect, it would be desirable to let the donor know his problem. He pointed out that even if the donor had affirmed his wish for not being contacted again by the Council, he should be informed of his genetic problem as he might need to take this into consideration in deciding whether to have any other children. However, Dr LEONG Che-hung said it was not necessarily the case and pointed out that to his knowledge, a blood donor whose blood was found HIV positive would not be contacted later on and advised to seek medical treatment. The Chairman requested and the Administration agreed to provide information on the procedures adopted by the Red Cross in handling such cases for members' reference. DSHW1 agreed to reconsider the policy and revise clause 31(3) accordingly.

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9. SALA invited members' attention to the Administration's proposed CSA to clause 31(1)(b). He explained that by the amendment, a person to whom a licence applied or a licensee, in addition to "an authorized person", would also be authorized to disclose information contained in Register A subject to the prescribed conditions being met.

II. Date of Next Meeting

10. Members agreed to meet again on 14 September 1999 at 8:30 am.

11. The meeting ended at 12:20 pm.

Legislative Council Secretariat

14 February 2000