

LS/B/33/04-05

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Ms Melody Luk
SLO (C)(CS) 2
Labour Department
Rm 1537, 15/F, Harbour Building
38 Pier Road, Central, Hong Kong

By Fax (2815 6061) and By Post

30 March 2006

Dear Ms Luk,

**Certification for Employee Benefits (Chinese Medicine)
(Miscellaneous Amendments) Bill 2005**

I refer to the revised draft Committee Stage Amendments to the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005.

I enclose herewith my suggestions with regard to clauses 23(e) and 25(3) (proposed sections 12(4) and 12B(3) of the Pneumoconiosis (Compensation) Ordinance (Cap. 360)) as marked.

The object of the proposed section 12B(3)(ac) of PCO seems to be that the Pneumoconiosis Compensation Fund Board may seek assistance from competent persons to establish whether or not the statutory requirements are met. As such, I wonder whether the word “advice” or “opinion” (from such competent persons) would be more appropriate than “verification” (from such competent persons) as used in the draft CSAs since “verification” usually refers to the factual or evidential establishment of the truth or correctness of certain things.

I look forward to your reply in bilingual form on or before the next Bills Committee meeting on 4 April 2006.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

Encl

c.c. LA
CCS(2)1

Clause 23

“廢除“訂的醫治費用”而代以“指的醫療費”。”

- (b) In subclause (3), by deleting “treatment;” and substituting “treatment.”
- (c) By deleting subclause (4).
- (d) In subclause (5), in the proposed section 12(3)(a), by adding “registered” before “medical practitioner” where it twice appears.
- (e) By adding –

“(6) Section 12 is amended by adding –

“(4) Medical expenses under this section shall not be payable in respect of medical treatment given in a place outside Hong Kong unless –

- (a) the medical treatment was ^{lawfully} given by, or under the supervision of, a registered medical practitioner or registered Chinese ^{as permitted} medicine practitioner in that place ~~lawfully~~ under the law of that place; and
- (b) the medical treatment was medical treatment that might have been lawfully given by him or under his supervision (as the case may be) in the course of his practice in Hong Kong.”

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In the proposed section 12AA –

- (a) in subsection (2)(a), by adding “registered” before “medical practitioner”;
- (b) in subsection (4) –
 - (i) in paragraph (c), by deleting “or”;
 - (ii) by adding –
 - “(ca) is exempted from registration by virtue of

section 37 of the Chinese Medicines Regulation (Cap. 549 sub. leg. F); or”;

(c) in subsection (8), by adding “registered” before “medical practitioner” where it first appears.

25(3)

(a) In the proposed section 12B(3), by adding before paragraph

(a) –

“(aa) may require the person to inform the Board in writing, within a reasonable period of time as specified by the Board, whether any medical treatment was given in Hong Kong or outside Hong Kong;

(ab) may require the registered medical practitioner or registered Chinese medicine practitioner whom the person claims to be the one that gave the person medical treatment to inform the Board in writing, within a reasonable period of time as specified by the Board, whether he did give the medical treatment to the person, whether the medical treatment was given in Hong Kong or outside Hong Kong, and whether the medical treatment was medical treatment that met the requirements in section 12(4);

|| (ac) may seek ^{advice} ~~verification~~, from such persons as in the opinion of the Board may be competent for the purposes, as to whether any medical treatment was medical treatment that met the requirements in section 12(4);”.

(b) In the proposed section 12B(3)(b) and (4)(a) and (b), by adding “registered” before “medical practitioner” wherever it appears.

(c) In the proposed section 12B(5), by adding “registered” before “medical practitioner” where it first appears.

(d) In the proposed section 12B(6), by deleting “(3)(a)” and substituting “(3)(aa), (ab) or (a)”.

(e) In the proposed section 12B(8)(a), by adding “registered”