

立法會
Legislative Council

LC Paper No. CB(2)1247/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/BC/16/04

Bills Committee on Dentists Registration (Amendment) Bill 2005

**Minutes of the third meeting
held on Thursday, 12 January 2006 at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon KWOK Ka-ki (Chairman)
Hon Andrew CHENG Kar-foo
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH

Public Officers attending : Item I

Mr Jeff LEUNG
Principal Assistant Secretary for Health, Welfare and Food
(Health)

Mr Eric CHENG
Assistant Secretary for Health, Welfare and Food (Health)

Dr Joseph CHAN
Consultant i/c Dental Service
Department of Health

Mr H Y AU
Head, Boards & Councils
Department of Health

Ms Lonnie NG
Senior Government Counsel

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Ms Maisie LAM
Council Secretary (2) 2

I. Meeting with the Administration
(LC Paper No. CB(2)834/05-06(01))

The Bills Committee deliberated (Index of proceedings at **Annex**).

2. Members noted the Administration's paper responding to issues raised at the meeting on 13 December 2005.

3. The Bills Committee started clause-by-clause examination of the Bill, and completed scrutiny up to clause 21 of the Bill. Scrutiny of the proposed sections 2(4), 12B, 12E and 12F under clauses 3 and 10, and clauses 15, 16 and 18 was deferred pending consideration of the relevant Committee Stage amendments (CSAs)/further information to be provided by the Administration.

4. The Administration was requested to provide a response to the following –

(a) the suggestion of providing a statutory mechanism for any dentist, who was aggrieved by the order of the Council not to include his name in the Specialist Register (SR), to appeal to Court;

(b) the suggestion of introducing 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;

(c) reasons for the difference in the penalty for wilfully or falsely pretending to be a dentist under the proposed section 25 and the penalty for the similar offence under the Medical Registration Ordinance (Cap. 161) and the Social Workers Registration Ordinance (Cap. 505); and

(d) the policy intent of the penalty under section 14(2) for displaying in

any premises a certificate of registration when the name of the concerned dentist no longer appeared on the General Register, previous cases falling within the ambit of the section and the respective practice of other professions.

5. The Administration was requested to provide the Bills Committee with its proposed CSAs to the Bill on the following –

- (a) to amend the proposed section 2(4) to enhance its clarity so that the suitability grounds for the name of a registered dentist to be included in, or removed from, the SR would be consistent with the conditions set out in the proposed section 12B(3);
- (b) to amend the proposed section 12B(3)(b) to reflect the legislative intent that the non-academic factors to be considered by the Education and Accreditation Committee in vetting an application for inclusion in the SR would be pertinent to an applicant's competence and performance in relation to the specialty concerned, instead of his moral standard or conduct; and
- (c) to amend the proposed section 22(2A) consequent upon the repeal of section 23(2) in October 2005.

6. The Administration agreed to revert to members the approximate timing of the commencement date of the Amendment Ordinance, taking into account the time required by the Dental Council of Hong Kong to make the administrative arrangements.

II. Date of next meeting

7. Members agreed that the next meeting would be held on 10 February 2006 at 8:30 am.

(Post-meeting note : At the request of the Administration and with the concurrence of the Chairman, the next meeting of the Bills Committee was re-scheduled to 28 March 2006 at 8:30 am.)

8. There being no other business, the meeting ended at 10:25 am.

**Proceedings of the third meeting of the
Bills Committee on Dentists Registration (Amendment) Bill 2005
on Thursday, 12 January 2006 at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 – 000526	Chairman	Opening remarks	
000527 – 001633	ALA7 Chairman Ms Audrey EU Administration Mr LI Kwok-ying	<p>Briefing by the Administration on its response to the following issues raised by members at the meeting on 13 December 2005 –</p> <p>(a) the legislative intent in respect of the condition set out in the proposed section 12B(3); and</p> <p>(b) the difference in the legislative intent between the condition under section 9(3)(b) and the proposed section 12B(3) [LC Paper No. CB(2)834/05-06(01)].</p>	
001634 – 004619	ALA7 Chairman Administration Ms Audrey EU	<p>Statutory interpretation of “infamous or disgraceful conduct in a professional respect” in the United Kingdom’s Dentists Act 1957 and “serious professional misconduct” in the Dentists Act 1984</p> <p>Whether complaints or information involving suitability issue on non-academic grounds, which would be referred to the Education and Accreditation Committee (EAC) for consideration, were restricted to the question of whether a dentist had fallen short of the standard expected among members of the dental profession in that particular specialty in terms of competence and performance, regardless of whether it involved a wilful element</p> <p>The difference in the legislative intent in considering the non-academic factor of an application for inclusion in the SR and the General Register (GR) as provided under the proposed sections 2(4)(c) and 12B(3)(b) and section 9(3)(b) respectively</p> <p>The Administration undertook to prepare the proposed Committee Stage amendments (CSAs) to –</p> <p>(a) the proposed section 12B(3)(b) to reflect the legislative intent that non-academic factors to be considered by the EAC in vetting an application for inclusion in the SR would be on an applicant’s competence and performance in relation to the specialty concerned, instead of his moral standard or conduct; and</p> <p>(b) the proposed section 2(4) to enhance its clarity so that the suitability grounds for the name of a registered dentist to be included in, or removed from, the SR would be consistent with the conditions set out in the proposed section 12B(3).</p>	<p>✓ (Admin to provide the CSAs)</p>
004620 – 004746	Chairman Administration	To proceed with the clause-by-clause examination of the Bill	

Time Marker	Speaker	Subject(s)	Action Required
004747 – 005012	Chairman Administration	<i>Clauses 1-2</i> The Administration agreed to revert to members the approximate timing of the commencement of the Amendment Ordinance, taking into account the time required by the Dental Council of Hong Kong (“the Council”) to make the administrative arrangements	✓ (Admin to respond)
005013 – 005108	Chairman Administration	<i>Clause 3</i> Deferral of the scrutiny of the drafting of the proposed section 2(4) pending the CSAs to be provided by the Administration	
005109 – 005720	Chairman Administration	<i>Clause 4</i> Whether the registered dentists appointed by the Council as members of the EAC under the proposed section 5B were required to be specialist dentists Reasons that the EAC had to perform the function to review the standard and structure of undergraduate dental education and training in dentistry required for a person to become a registered dentist under the proposed section 5C(e)	
005721 – 005829	Chairman Administration	<i>Clauses 5-9</i>	
005830 – 010002	Chairman	<i>Clause 10</i> Deferral of the scrutiny of the drafting of the proposed sections 12B, 12E and 12F pending the consideration of the CSAs to the proposed sections 2(4) and 12B(3) to be provided by the Administration	
010003 – 010239	Chairman Administration	<i>Clauses 11-12</i> The statutory status of the list and the certificate referred to in the proposed sections 13A(1) and 13A(2) and the proposed section 13A(5) respectively as evidence that the name of a registered dentist was included in the SR	
010240 – 010929	Chairman ALA7 Administration Mr LI Kwok-ying	<i>Clauses 13-14</i> Reasons for not imposing a statutory requirement under section 14 to require a dentist whose name was included in the SR to exhibit the certificate of registration to the effect that his name had been included in the SR in the premises in which he practised dentistry for gain	
010930 – 012417	Chairman ALA7 Administration Ms Audrey EU Mr LI Kwok-ying	<i>Clauses 15-16</i> The Administration agreed to consider providing a statutory mechanism for any dentist, who was aggrieved by the order of the Council not to include his name in the SR under the proposed section 12B(3), to appeal to Court Deferral of the scrutiny of the drafting of clauses 15 and 16 pending the consideration of the CSAs to the proposed sections 12B(3) and 2(4) to be provided by the Administration	✓ (Admin to provide a written response)

Time Marker	Speaker	Subject(s)	Action Required
012418 – 013249	Chairman Administration Mr LI Kwok-ying Ms Audrey EU	Date of next meeting	
013250 – 013510	Chairman Administration	<i>Clause 17</i> The Administration undertook to provide its CSAs to the proposed section 22(2A) consequent upon the repeal of section 23(2) in October 2005	✓ (Admin to provide the CSAs)
013511 – 013515	Administration	<i>Clause 18</i> Deferral of the scrutiny of the drafting of clause 18 pending the review of the Administration on the appeal mechanism pursuant to the discussions at the earlier part of the meeting	
013516 – 013727	Chairman Ms Audrey EU Administration	<i>Clause 19</i> The Administration agreed to consider introducing a fine at an appropriate level for the conviction of fraudulent registration, as an alternative to the penalty of imprisonment for three years set out in the proposed section 24	✓ (Admin to provide a written response)
013728 – 015451	Chairman Administration Mr LI Kwok-ying ALA7 Ms Audrey EU	<i>Clause 20</i> The Administration was requested to review the difference in the penalty for wilfully or falsely pretending to be a dentist under the proposed section 25 and the penalty for the similar offence under the Medical Registration Ordinance (Cap. 161) and the Social Workers Registration Ordinance (Cap. 505) <i>Clause 21</i> Reasons for imposing different penalties on a person who falsely exhibited a certificate of registration under section 14(2) and a person who wilfully or falsely pretended to be a dentist or a specialist under the proposed sections 25 and 25A The Administration was requested to review the policy intent of the penalty under section 14(2) for displaying in any premises a certificate of registration when the name of the concerned dentist no longer appeared on the GR, previous cases falling within the ambit of the section and the respective practice of other professions	✓ (Admin to provide a written response) ✓ (Admin to provide a written response)
015452 – 015505	Chairman	Concluding remarks	