

HEALTH COMMITTEE

Wednesday 28 June 2006

Session 2

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HEALTH COMMITTEE

17th Meeting 2006, Session 2

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*Janis Hughes (Glasgow Rutherglen) (Lab)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)

*Kate Maclean (Dundee West) (Lab)

*Mr Duncan McNeil (Greenock and Inverclyde) (Lab)

*Mrs Nanette Milne (North East Scotland) (Con)

*Shona Robison (Dundee East) (SNP)

Euan Robson (Roxburgh and Berwickshire) (LD)

*Dr Jean Turner (Strathkelvin and Bearsden) (Ind)

COMMITTEE SUBSTITUTES

Mr Kenneth Macintosh (Eastwood) (Lab)

Mr Stewart Maxwell (West of Scotland) (SNP)

*Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Kenneth Macintosh (Eastwood) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Chris Allen (Clinical Dental Technicians Association)

Tony Griffin (Dental Technicians Association)

Lewis Macdonald (Deputy Minister for Health and Community Care)

Hew Mathewson (General Dental Council)

Tony Ward (Association for the Promotion of Denturism)

Ray Watkins (Chief Dental Officer)

CLERKS TO THE COMMITTEE

Lynn Tullis

Simon Watkins

SENIOR ASSISTANT CLERK

Graeme Elliott

ASSISTANT CLERK

David Simpson

LOCATION

Committee Room 1

Scottish Parliament

Health Committee

Wednesday 28 June 2006

[THE CONVENER opened the meeting at 11:04]

Subordinate Legislation

General Dental Council (Professions Complementary to Dentistry) Regulations Order of Council 2006 (SI 2006/1440)

The Convener (Roseanna Cunningham): I welcome everybody to today's unusual meeting of the Health Committee, which is being held at a time when we do not normally have a meeting. I welcome committee members and members of the public in the public gallery.

I have received apologies from Euan Robson, who cannot attend today's meeting. Will Margaret Smith confirm that she is attending as a substitute Liberal Democrat member?

Margaret Smith (Edinburgh West) (LD): Yes, I am substituting for Euan Robson.

The Convener: I am advised that other members of Parliament will attend today's meeting, but they do not seem to be here at the moment—apart from Ken Macintosh, who is in the clerk's seat behind me.

Agenda item 1 is consideration of a negative instrument. We will receive a briefing on the General Dental Council (Professions Complementary to Dentistry) Regulations Order of Council 2006 (SI 2006/1440). The briefing will be in two parts. In the first part, we will take evidence from the Deputy Minister for Health and Community Care and his two officials, who I welcome to the meeting. *[Interruption.]* Sorry—it is a bit difficult to work this out when the room is set up for a round-table discussion—the minister is actually accompanied by three officials: Ray Watkins, who is the chief dental officer; Catherine Clark, who is from the Scottish Executive Health Department; and Andrew Mackenzie, who is from the office of the solicitor to the Scottish Executive.

I invite the minister to make an opening statement. Following that, I will invite Nanette Milne, who has lodged a motion to annul the instrument, to ask the first question of the minister.

The Deputy Minister for Health and Community Care (Lewis Macdonald): The primary aim of the instrument is to enhance public safety by ensuring that anyone who undertakes

clinical work with patients is fully trained and qualified to do so. As well as protecting the public, the instrument will open up the practice of dentistry and create new opportunities for a range of dental staff. I believe that the approach in the instrument has wide and warm support from the vast majority in Scotland's 4,000-strong dental care workforce and professions complementary to dentistry as well as, of course, from the many other such practitioners elsewhere in the United Kingdom. The instrument will apply to professions complementary to dentistry, including dental nurses, dental technicians, orthodontic therapists and clinical dental technicians. I understand that a number of their professional bodies and associations will present their views to the committee today.

Although the instrument will bring many clear benefits, in recent weeks a singular issue has arisen over the position of non-clinical dental technicians who go beyond their remit of making dentures—the practice is known as denturism—by also fitting dentures, which they are not qualified to do. A particular concern is that some denturists have no qualifications but treat patients unsupervised, which means that they operate outwith the necessary ethical framework—for example, in respect of disclosure—or legal framework and without insurance. When people who are not clinically qualified treat patients, it is inevitable that there is a real risk that dental or oral diseases might go undiagnosed or untreated.

The safety of patients must be, and is, paramount in all the decisions that the General Dental Council makes on the matter. I agree with the GDC that registering denturists prior to some external validation of their skills and experience is simply not an option. We want to ensure that, in future, denturists can practise only if they can demonstrate that they have attained the necessary qualifications for registration and then continue to meet the standards expected. The intended outcome of the instrument is to make the practice of denturism legal and safe. It will provide denturists with a way of joining the wider dental team.

Denturists can, of course, continue to make dentures and register with the General Dental Council as dental technicians, but those who want to register and practise as clinical dental technicians will need to undertake a recognised qualification. One such qualification has been attained by a number of Scottish denturists through the course at George Brown College in Canada. I am pleased to report to the committee that, from August this year, eligible denturists who are resident in Scotland will be able to link up with the top-up course that is available in England for those who have already completed the George Brown course. The students in Scotland will pay

the same for the course as those in England and will be able to complete the course on a part-time basis in a matter of months, provided that they can demonstrate the necessary levels of competence and skills.

In addition, we are pursuing the commissioning of a part-time course or courses to enable registered dental technicians in Scotland to enhance their skills and to become clinical dental technicians. The aim is for a course or courses to commence as early as possible next year. Clearly, that can happen only if there is demand, so it is vital that those who are interested in such a course make themselves known, initially through NHS Education for Scotland, as soon as possible. The education sector will then be able to assess the viability and costs associated with such courses, which will need to be approved by the GDC.

Those who intend to practise in the private sector when they qualify will have to meet their own course costs. We also plan to move towards providing support for those who make a commitment to work in the NHS after qualification. The aim is to train a number of clinical dental technicians to work in the salaried dental service in the NHS in Scotland, offering their services as part of multiprofessional dental teams in health centres, and to support a number of training places commensurate with the level of need that has been identified in the NHS.

I hope that the provisions will help those who wish to come into the NHS. As for people who wish to continue to practise privately, I encourage their representatives to come to the table and discuss the design of training courses with NHS Education for Scotland—and perhaps with the GDC and education providers—to enable their skills and experience to be taken into account.

The measure is designed not to isolate denturists but to bring them into the mainstream, in their interests and in the interests of their patients, and I hope that members will view it in that light.

The Convener: Thank you. I invite Nanette Milne to ask the first question, after which I will seek expressions of interest from committee members and others present.

Mrs Nanette Milne (North East Scotland) (Con): I thank the minister for his statement, which has clarified some of the relevant issues. I feel that, in principle, any proposal to register all those involved in dentistry would be a sound move.

I also welcome the minister's announcement that people in Scotland will be able to link into courses that are currently available in Canada and south of the border. However, I seek some clarification. I understand that, in Canada, trainee

denturists must complete a clinical component in that country. Will that still be the case when Scotland is linked into the Canadian courses, or will trainee denturists on those courses be able to complete their training in Scotland?

Secondly, the minister dealt only with non-clinical dental technicians who wish to become clinical dental technicians. Obviously those people have already trained as dental technicians. How many denturists are in that situation? What are the options within the legal framework for denturists who have not been trained but who wish to continue practising?

Lewis Macdonald: In response to the first question, the intention is to design courses that will be available in Scotland. We are still at an early stage of the design process, but we expect the training to take about two years. Courses could be undertaken on a part-time basis, which would allow people to earn a living. However, we want to encourage people who intend to make dentures to practise legally as dental technicians instead of taking on clinical responsibilities for which they have not yet been trained. Once they have completed the course, they will be qualified to take on such responsibilities.

I believe that your second question was about the number of denturists.

Mrs Milne: Do you know what proportion of practising denturists are not trained at all?

Lewis Macdonald: I find it difficult to respond to that question. Because the practice of clinical denturism by dental technicians is currently outwith the law, outwith the reach of the NHS and outwith any form of registration, it is hard to get a clear idea of the number involved. Our impression is that most denturists are qualified dental technicians; however, only a relatively small number have the Canadian clinical qualification.

Because it is difficult to answer that question, I made it clear in my opening remarks that I was keen to encourage people who might be interested in undertaking such a course to make themselves known either directly or through their representative bodies to allow education providers to assess the number of places that will be required to bring people up to speed.

Mrs Milne: Will people who have not been trained be eligible for those courses, or will they have to be assessed?

Lewis Macdonald: If someone has had no training at all, they will have to undertake some form of dental technician or clinical dental technician training. If they do not have the basic qualification in dental technology, it will take them more than the two years that I have suggested to complete both that course and a clinical course.

However, as I have indicated, we believe that the majority of denturists have already qualified as dental technicians and the clinical course, if taken part time, could take two years to complete.

11:15

Mrs Milne: The minister said that the courses might be available early next year. Can the chief dental officer tell us just how soon the training courses can be made available?

Ray Watkins (Chief Dental Officer): Most courses in Scotland usually start around August or September. We are trying to ensure that some of the preliminaries, including assessment and other aspects of evaluating people's experience, take place before then. We will try to bring the courses forward as soon as possible. It is useful to remember that the majority of courses that are run in Scotland and throughout the United Kingdom normally start at the beginning of the academic year in August or September. I repeat, however, that we will do everything possible to bring the courses forward.

Lewis Macdonald: Some of the people we are talking about have been practising, albeit outwith the law and regulation, for some time. It is important for education providers to make some assessment of the validity of those people's experience for the purposes of training. When the chief dental officer talks about an assessment period prior to the formal beginning of training, that will be informed by those who are already in practice, so that some assessment can be made by the providers of whether people's experience and skills are such that they will not require the full two years to complete the course. We cannot judge the extent to which that will apply to people until those conversations have taken place.

Mrs Milne: It might be too soon to get a definitive answer to this but how, practically, would such assessments be made? Would they involve someone viewing the work of the people concerned in their practices? At present, those practices are illegal, and they would still be illegal after 31 July.

Lewis Macdonald: We would need to discuss those issues with those who are in practice and with representatives of the profession. The absolute first requirement must be to protect patient safety and to ensure that nothing is done by either the NHS or education providers that could be held to compromise that.

Mrs Milne: A meaningful discussion could be held—

Lewis Macdonald: A meaningful discussion could be held around how experience may be taken into account.

Shona Robison (Dundee East) (SNP): I very much welcome the opportunity to ensure registration and regulation in the dental professions, but we must ensure that the practical effect of any legislation that we pass is thought through very carefully. We are examining the instrument today to ensure that we are on the right track for bringing in those who are currently outside the profession and who are not operating legally. There is potential to bring in a pool of people who have a great deal of experience.

I would like to be absolutely clear about the training. My understanding is that the vast majority of the people concerned do not hold the Canadian qualification and that a number of those involved are not dental technicians by trade. I also understand from what the minister said that NHS Education for Scotland will take the lead in facilitating further discussions with denturists and their organisations and representatives with the aim of considering whether to have a Scotland-based course that will be made available to those with no qualifications. Part of that could involve a competence test to establish what further training is required. That training could be provided over, say, a two-year period.

Presumably, much of that will depend on the discussions about denturists' training needs. Some of them will have the qualification, but the vast majority of them will not. Is that an accurate reflection of what you are saying, minister? Will the discussions be held around the training needs of the majority of denturists? Do you agree that there will need to be a buy-in from them to allow that to progress?

Lewis Macdonald: The process is not an exact science, for the reasons that I have explained. However, our estimate is that the majority are in the middle category: they have a dental technician qualification but do not have the Canadian qualification as clinical dental technicians. For that majority, the process will be as I described, which is that NHS Education for Scotland's representatives will have discussions with the GDC and education providers in colleges to seek to facilitate putting in place the courses next year to allow dental technicians to qualify as clinical dental technicians.

As I explained in answer to a previous question, the process will inevitably be slightly longer for those who have no qualifications at all because the clinical course that I described will be based on people already having a qualification as dental technicians, so a higher national certificate or a higher national diploma in dental technology will be required as the starting point. I am sure that Shona Robison is right and that there are denturists who do not have any qualifications. Clearly, the process for their proceeding to the

clinical dental technician stage would be informed by the discussions that will take place around those who have the dental technician qualification. However, they will clearly be required to get the basic dental technician qualification first. I do not know whether we can indicate the timeframe that that overall process might involve. It will clearly be longer because people will be required to get the first qualification.

As far as dental technicians are concerned, the instrument makes available transitional arrangements that may be of assistance in circumstances in which people are practising as technicians. I wonder whether the chief dental officer would like to add anything.

Ray Watkins: I preface my comments with the fact that we do not know who the people out there are or what experience they have, so we must be very careful. Some people have worked as dental technicians for many years. There are transitional arrangements under which they can become registered dental technicians with the GDC. If they registered, they could present that as part of the basis for their going on to the next course in clinical dental technology.

Lewis Macdonald: It is a two-year transitional arrangement under the instrument.

Shona Robison: I am aware of that. I suppose I am just looking for a reassurance that for denturists who may have operated for a number of years but who do not necessarily have the qualification there will be options and possibilities on the table for them to discuss. I know that there is a difficult balance around the competence test and whether someone's competence can be assessed when they are regarded as having operated illegally. Nevertheless, there must be some kind of competence test to gauge where a course could start for people in that position. I am looking for a bit of reassurance that there will be something on the table for them.

Lewis Macdonald: It is a difficult balance, but those who are practising without qualifications must be taken into account. Clearly, we would seek to encourage that all concerned practise within the law—members would not expect a minister to say otherwise. What we would look to do for those people who are currently not qualified to make dentures is contained in the instrument, which will provide a two-year transition arrangement for those people to obtain a qualification to do basic dental technology. I ask Ray Watkins to confirm whether that is an accurate description.

Ray Watkins: Yes, it is. They can also get the equivalent through experience. Again, a partnership arrangement is required. The Executive alone cannot say yes or no to this type

of arrangement. We need to work with education providers, NHS Education for Scotland and the GDC and pull all the groups together to work with the denturists and to try to get people round the table so that we can be as helpful as possible in progressing matters. That is why I am not loth to be inexact about the process, because we need all those people to get around the table and discuss the issues. The minister alone cannot just say that something will happen; all the people to whom I referred must be round the table in order for matters to be progressed.

The Convener: I thank the deputy minister and his officials for their attendance for this part of the meeting. The minister will return shortly for the next stage of the process.

I ask the members of the next panel to take their seats and welcome them to the committee. I welcome: Hew Mathewson, who is the president of the General Dental Council; Andrew Lamb, who is the national director of the British Dental Association Scotland, and who has appeared at committee before; and Chris Allen, from the Clinical Dental Technicians Association. I cannot read the nameplates of the other witnesses from this angle, I am afraid. They are Tony Griffin, who is the chair of the Dental Technicians Association; David Smith, who is the spokesperson for registration from the Dental Laboratories Association; Tony Ward, who is the chairman of the Association for the Promotion of Denturism; and Elena Graham, who is the chairman of the council of the British Association of Dental Nurses. The seating arrangement is a little awkward, but the minister will return, so we have kept some seats empty. I invite Hew Mathewson to make a short opening statement on the General Dental Council's position. Unusually, it is the council that has initiated the order, so that is probably appropriate. After that, I will invite questions from members.

Hew Mathewson (General Dental Council): I am grateful for the opportunity to make a statement. I am a national health service general dental practitioner in Edinburgh. I am also one of the elected Scottish members of the General Dental Council and its president.

The Scottish Parliament's rejection of the order would be the single most effective way to bring to a grinding halt our work to increase protection of Scottish dental patients. There would be three main consequences. First, rejection of the order would halt the opening of a dental care professionals register and put the brakes on the development of registration opportunities for thousands of dental nurses and dental technicians in Scotland, many of whom are represented here today by the professional associations. Secondly, rejection would prevent competent and qualified

denturists from working openly and legally in Scotland for the first time. Thirdly, rejection would prevent the training of additional health care workers, who could help to alleviate the current pressures on dentists and their patients.

Patients are entitled to know that the people who deliver their care are properly trained and regulated. The new register, which is due to open in just over four weeks, will enable us to register and regulate the whole clinical dental team.

As the committee will be aware from our submissions and by the presence of my colleagues here today, the majority of professional groups that would be affected by the order—including the Clinical Dental Technicians Association, the Dental Technicians Association, the Dental Laboratories Association, the British Association of Dental Nurses and the British Dental Hygienists Association—have been very supportive of the proposed changes, and they welcome the introduction of the register. Nevertheless, I must comment on the Association for the Promotion of Denturism's written submission, much of which is naive, factually inaccurate and possibly disingenuous.

Our main aim today is to address constructively the committee's concerns. I make it clear that, as we have demonstrated with, for example, dental nurses, who have a variety of routes to registration, we remain committed to working quickly and efficiently with education providers that wish to acknowledge prior learning. The order would do the following: it would enable dental nurses and dental technicians to be registered; it would allow the United Kingdom to be at the forefront of making denturism legal; it would provide additional trained dental care professionals, which would alleviate the pressure on dentists; and—perhaps most important—it would provide patient protection by regulating dental professionals all over the UK, including Scotland.

The Convener: Thank you. I invite members' questions, which may be to any member of the panel. When questions are asked, I do not want every member of the panel to try to answer them—we would be here all day. If there is a specific point that you want to comment on that has not been addressed to you, you should raise your hand to let me know. I will do my best to work out who is who.

Mrs Milne: I address my questions to Tony Ward, from the Association for the Promotion of Denturism. We heard from the minister that it is difficult to assess how many practising denturists are qualified dental technicians. Does your association have any figures on that and on how many have no qualifications?

Tony Ward (Association for the Promotion of Denturism): We have no exact figures. We tend to believe that the majority of denturists are trained as dental technicians. Many of them are trained in hospitals or in private practice. I would think that the majority are qualified dental technicians.

Mrs Milne: The figure that I have seen is that only six people have applied so far for the George Brown College course, which is based in Canada. The minister said clearly that the training was to be made available in Scotland. Have you any knowledge of the likely demand for that training and will you encourage your members to register an interest in doing it?

11:30

Tony Ward: We will certainly encourage our members to register interest. We can guesstimate the figures from simple facts. As part of the Scottish Executive's "Modernising NHS Dental Services in Scotland" consultation in 2003, it emerged that one fifth of all Scots rely on dentures of some sort and that 18 per cent have no natural teeth at all. Of the over-65s, only 50 per cent are totally dentureless. The figures lead us to believe that there are approximately 500 denturists working in Scotland. Members must realise that, in more isolated areas, those people are not an alternative service to the dentist; rather, they are the service. We are concerned that, if the order is allowed to go through, it will in effect eliminate that service for up to three years, while people acquire a registrable qualification.

Mrs Milne: You have said that most of your members are trained technicians. For the small group who, it is alleged, do not have training, do you take comfort from the fact that people will, as was said earlier, be allowed two years to achieve a basic qualification in dental technology?

Tony Ward: We certainly take comfort from that and from the point that many people will be able to register based simply on the fact that they have years of experience.

Mrs Milne: One basic point is that many members of your profession have been practising outwith the law for many years. Do you accept that, if the order goes through and the requirement for registration is introduced on 31 July, the situation will remain as it was because those who have been practising illegally will still do so, until such time as qualifications are demanded?

Tony Ward: I could not possibly encourage my members to continue to practise illegally. If they did so, that would be a tragedy, because they would not be encouraged to take up further education, they would not be allowed to acquire indemnity insurance and they would not receive

the many other advantages of being recognised and practising legally.

Mrs Milne: But nothing will change from the status quo.

Tony Ward: No—nothing will really change.

Shona Robison: My questions are in a similar vein. Progress appears to be being made, but it is important to seize the opportunity. How do Tony Ward and Chris Allen envisage the discussions with NHS Education for Scotland developing? There are several organisations to which denturists belong, so it is important that we bring those organisations together with NHS Education for Scotland and come up with the best training opportunities for the range of people who are involved. Are you willing, happy and able to do that?

Tony Ward: We are working with an education provider, which I hope will provide an outreach course in Scotland. Once again, time is the problem—the time between now and the course becoming available is likely to be about 12 months. We hope that, in the interim, we can have pre-registration, to assure the GDC that denturists present no danger to the public. We also hope that denturists can, after they undertake the course, acquire full, rather than provisional, registration.

Shona Robison: I presume that that possibility will have to be discussed with the GDC. After people have registered and started the course, they might be able to carry out certain procedures at various stages of that course—I know that that happens with other courses.

Hew Mathewson: A lot more could be done under supervision in training than could otherwise be done. For example, I hope that practitioners do not need to go to Canada for the clinical aspects of the George Brown College qualification, which could be covered in this country under supervision. The top-up course for the George Brown College scheme came to the council in the first week of May and was approved in the third week of May; it will start in August. That is how quickly we are prepared to take on board such matters. From our point of view, there is no need for significant delays.

It is difficult to obtain intelligence, but I must challenge the idea that Scotland has 500 denturists; that is ludicrous. I think that people who have intelligence on such matters would agree.

The Convener: The truth is that nobody seems to know.

Hew Mathewson: The Nuffield inquiry made a careful estimate in 1993. All the individuals involved will say that they have been doing the job for a long time, so most of them will have been

around in 1993. At that time, the estimate for the UK was that there were fewer than 300 denturists.

Shona Robison: Whatever the number, what is important is how we put in place the training that will ensure that such people can operate legally and on a registered basis.

Chris Allen (Clinical Dental Technicians Association): It was said that only six George Brown College graduates have registered with the Royal College of Surgeons of England. That is misinformation.

Mrs Milne: Is it?

Chris Allen: Yes. Uptake was slow in the two weeks after the forms were sent out, but after that, I wrote to all the graduates and the figure is now more than 60 and is rising every day.

The Convener: Is that the figure for Scotland?

Chris Allen: That is the figure for Scotland and England.

The Convener: What is the figure for Scotland?

Chris Allen: I believe that only one or two graduates from George Brown College are in Scotland, anyway.

The Convener: Our concern is what is happening in Scotland, so we need to know the figure for Scotland.

Chris Allen: I reassure the committee that both those graduates in Scotland have registered with the royal college to upgrade.

Shona Robison: Is your organisation happy and willing to participate in discussions with NHS Education for Scotland about denturists' training needs? Will your organisation be involved in that?

Chris Allen: Undoubtedly. We will support anything that will achieve what the GDC has striven to do—particularly in Scotland, where the problem of denture provision is bigger than it is in England—provided that people are trained and competent to perform the procedures, in the interests of patient safety.

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): Hew Mathewson emphasised alleviating the pressure on dentists. Considering that, it is extremely important that people have well-fitting dentures, which is important to their digestion and their general health. A significant minority of people use dentures. It seems that everybody must be registered to trigger qualification and indemnity, with which everybody agrees.

You think that not many people are involved, so is there a quick way to assess their patients—their customers—whom we are told have been well served by them for years? That would be a way to assess the work that has been done by people

with partial qualifications or with no qualifications to allow them to fit into one of your courses. I see a gap that could affect dentists in some areas when dissatisfied customers require speedy treatment for dentures.

Hew Mathewson: Any education provider that wants to recognise prior learning is likely to assess patients of the individual who came forward for training, in order to help to assess their skills and knowledge. We would look favourably on that.

It is not for us to design the course. We have a curriculum. An institution brings a course to us, which we approve and monitor closely, particularly if it is a new course—that is right for individuals. I imagine that that is how an intelligent institution would proceed; it would not start such individuals from scratch, but would acknowledge where they are, which is likely to include an assessment of their patients.

Dr Turner: Would anybody have difficulty with involving patients? Would patients or customers be willing to be involved?

Tony Ward: I am certain that many of our patients would be only too pleased to give evidence that they have had satisfactory service over a great many years.

Hew Mathewson: It would be fair to say that we get a great many complaints from patients who have dentures. Their number 1 complaint is when they discover that denturists are not regulated or indemnified. People take that very seriously and feel that that is remiss of us. Of course, if someone breaks the law it is not our responsibility; we can only seek to prosecute.

Dr Turner: I worked in general practice for 25 years and had 35 years in the national health service. It was stunning to realise that, but it has been going on for a long time, although many people have been remiss about noticing it. We have few dentists and there are people out there who require that service. As we have said, it is important to have well-fitting dentures and to have repeated fittings for those dentures. If somebody breaks a denture and goes to get their denture fixed, it is illegal for the person who fixes it to put it in the patient's mouth.

Hew Mathewson: I do not believe so.

Tony Griffin (Dental Technicians Association): It is not an illegal act to repair a denture and give it back to a patient, but it is illegal to put your fingers in a patient's mouth. I want to go back to accreditation of prior learning, or APL. It is now accepted that individuals can use experience towards degree modules. We have just put a top-up course for dental technicians through the General Dental Council. As part of that course, students can work in clinics with dentists—not in

clinical dental technology but in other aspects of dentistry. The ability to use APL exists.

Tony Ward: On patient complaints and harm, there is a ridiculously low level of prosecution. There has been one prosecution in the past five years in Scotland, which was for an act of illegal dentistry, not for causing patient harm. The Department of Health has no evidence that a denturist has ever caused any harm. I have that in writing.

Mr Kenneth Macintosh (Eastwood) (Lab): That is a good point to come in on. There are two concerns. I think I am right in saying that denturists agree that increasing regulation stems from people's wanting to drive up standards in the profession. However, because there is no course here in which they can get accreditation, there is a gap. The minister helpfully outlined a number of steps, which is an encouraging expression of good will from the Executive.

Another concern is that your occupation is illegal, but you have been practising for 18 years and have not been prosecuted. There is concern that, under the order, you will be criminalised for performing a service to the public. I do not know what assurance you can give, if any, that that will not happen. Perhaps those who are involved can meet halfway. There is the idea of a pre-registration course. If there is an expression of good will on behalf of denturists—if they say that they wish to register and to gain accreditation—perhaps you will accept them as decent people who are doing a decent job.

Hew Mathewson: We need to make it clear that if people enter training, that training would have to have been approved by us; therefore any clinical work within the context of that training would be entirely acceptable. That there have been no prosecutions in Scotland is the result of a feature of Scots law—there have been, and continue to be, successful prosecutions in England and elsewhere in the United Kingdom. Scots law requires a corroborative witness: when denturists are taking impressions or working in a patient's mouth they will normally ask family members or others to leave the room, so there is a lack of corroboration, which the Scottish courts do not find acceptable. There are no, or very few, prosecutions in Scotland. That is not the case in the rest of the UK. I, of all people, would not criticise Scots law, but the suggestion that we have been turning a blind eye is made only in Scotland. I do not think that denturists in England feel at all comfortable with the current situation and they certainly do not feel that anyone is turning a blind eye.

11:45

Mr Macintosh: I accept that. There are complaints against dentists, just as there are against denturists. The question is whether denturists operate to a poor standard or are just, as it appears to me, people who do a job to the best of their abilities and in good faith and who are willing to seek any accreditation that they can. I ask for the GDC to give me a sign that it will meet them halfway.

Hew Mathewson: If there are complaints against dentists, there are well-established complaints mechanisms to deal with them, whether they are from NHS or private patients. Ultimately, if a complaint is sufficiently serious, it can come before the GDC. Moreover, we are about to launch a scheme for registrants who perform poorly. It will deal with individuals who do a number of things that are sub-optimal but not, in themselves, awful.

That is different from the situation with denturists. I do not doubt that there are skilled and competent denturists, as well as some who are less than competent or perhaps less than well. The harsh reality is that we do not know. We have procedures to go through if any of our registrants is not well—annual declarations and health checks, for example—but those procedures do not apply to denturists.

Mr Macintosh: I take your point about corroboration in a Scottish court. However, Mr Ward pointed out that the only attempted prosecution in the past five years was not for malpractice, poor practice, substandard work or overcharging but for illegal dentistry. In other words, it was an attempt to stop denturists doing what they do. All I am looking for is an expression of good will from the GDC. There will clearly be a gap between the order being agreed to and denturists being able to gain their accreditation, so will you confirm that, in the interim, you will not try to close down denturists who are trying to come into the profession?

Hew Mathewson: That is self-evident from the way in which we have interacted with the Clinical Dental Technicians Association, which is a longer-established organisation than Tony Ward's Association for the Promotion of Denturism, which is relatively new. The way in which we have interacted with all the different groups, the way in which we respond to the request and the fact that we have a team of staff who work proactively to help those groups to make successful bids for educational approval all speak for themselves. There is no question that we would do anything other than co-operate as effectively as we can.

The Convener: Strictly speaking, denturists have been operating illegally until now, but my

assumption—which I think most of us share—is that the order marks an end to the turning of a blind eye and that there will be a slightly stricter regime. Is it correct to assume that if the order is not annulled and, as a result, the way in which denturists operate is monitored far more actively than it was in the past, customers of denturists will soon not be able to get the service that they have been accessing until now?

Hew Mathewson: That may be the case, although I remain to be convinced that the situation in Scotland will change materially. If something is happening that has been completely illegal for 80 years, I cannot think why it would stop on 1 August. It will be no more illegal than it has been; it will simply be illegal.

The Convener: I take it that you do not think that we are all just wasting our time talking about the order because it will not change anything. We know that it will change things.

Hew Mathewson: No. We want to encourage all denturists to register as dental technicians, which the majority will be able to do. By "majority", I do not mean 51 per cent, as we think that nearer 99 per cent will be eligible to register as technicians by one route or another because we have a variety of routes to ensure that people register. We will also encourage those who want to continue as denturists to find an appropriate course to achieve accreditation for their skills and to enable them to carry on.

The Convener: However, those who are in that position will not be able to continue doing all the things that they have been doing if they want to stay onside while they go through that process. Is that the position?

Hew Mathewson: In an ideal world, they would not.

The Convener: So there will be people who currently go to denturists who, within the next couple of months, will realise that they will not get all the services that they normally got from their denturists.

Hew Mathewson: That is absolutely true but, on the other hand, they will not be deluded into thinking that they have had their oral health and tissues checked by a professional or that the person is indemnified or registered in some way.

The Convener: That is a fair point. I think that this is the right way to go, but I am slightly concerned that there are areas in Scotland in which individuals will not have any alternatives because accessing a dentist there on anything other than an expensive basis is almost impossible. That is a separate issue, which the committee has previously dealt with, but the truth

is that some people will not receive any dental treatment for a time.

Hew Mathewson: First, there is an illusion that denturists are somehow inexpensive, but the information that we have received from patients who have contacted us with complaints is that they are often far from inexpensive.

Secondly, I entirely understand the point that has been made about the shortage of dentistry in some parts of Scotland. I have always been concerned about that shortage, but I have evidence that the situation is changing. In mid-April, I advertised for an NHS dentist to work in Edinburgh. Previously, there would have been a handful of applicants for the post, one or two of whom I would have considered to be suitable. On finding out that there was insufficient private work, most of the people who contacted me would not have taken the job. However, this time, I counted 40-odd serious applicants before I stopped counting, and one or two people have followed up what has been happening every week since then. The pressure for jobs in Scotland has therefore changed dramatically.

The Convener: I am glad to hear it. Those of us who represent areas of Scotland in which that is not the case would be glad if you directed your failing candidates to those areas.

There have been questions about how many denturists practise in Scotland. Where are they practising in Scotland? Perhaps nobody can answer that question.

Hew Mathewson: I have worked in Lothian for 30 years and think that I have a good knowledge of the situation. Some 360-plus dentists work in general practice in Lothian and there are three known active and fairly busy denturists. Those figures give an idea of the proportion of denturists to dentists. Even if we accept that there may be more denturists in places that have a greater problem, if there are 2,000 dentists in Scotland, we can work out that there will be a small number of denturists. However, I suspect that it would be better if Chris Allen answered that question.

Chris Allen: I can speak only about those who are members of the Clinical Dental Technicians Association in Scotland and those who are being trained on our courses in Scotland. At the moment, there are six.

The Convener: The difficulty is that there is no compulsion to join the Clinical Dental Technicians Association or any other association and there is no monitoring.

Chris Allen: Members will have read that the only available course at the moment is Canadian. That is true, but 90 per cent of the course is based in the United Kingdom. The restrictions on clinical

training in the Dentists Act 1984 are the only reason why people must go to Canada. The course has been running for 10 years, and some ex-members of the CDTA started on it. Ten years ago, when he was chairman of the CDTA, Mr Ward signed the contract to bring in that education, and many members of his association would have started the course at that time. I must ask why they did not continue on it because, if they had done so, they would have been trained and qualified to take up the profession by now.

Tony Ward: The course has been available for a great many years, but there was no agreement to validate it until early this year. There are problems with it. The Royal College of Dental Surgeons of Ontario has said of the radiography situation:

"It is harmful and would definitely jeopardize public safety to allow ... denturists to have the right to prescribe dental radiographs."

In the light of such comments, we felt unable to recommend that our members take the course.

The Convener: I am aware that significant ideological issues separate various associations, and I do not want to get into a Judean People's Front scenario.

Chris Allen: I do not want to do so either, but I must correct what has been said. Clinical dental technicians in England and Scotland are not trained to prescribe dental radiographs—they are trained to take and read dental radiographs and refer appropriately, just as dental nurses and dental hygienists are trained to take and process radiographs. Are we seriously saying that, as well as denturists, dental nurses and dental hygienists are dangerous when it comes to taking dental radiographs?

The Convener: The point has been made. I do not want us to go down that alley because we would find ourselves in a scenario that would not be helpful.

We have probably taken enough evidence, so I ask the panel members to take their seats in the public gallery and thank them for their attendance. I will suspend the meeting while we wait for the minister to return for item 2 on the agenda.

11:55

Meeting suspended.

11:56

On resuming—

The Convener: I thank the minister for returning with his officials. The committee is now asked to consider a motion to annul the General Dental Council (Professions Complementary to Dentistry)

Regulations Order of Council 2006 (SI 2006/1440), which is subject to the negative procedure. As the paper that was circulated to members points out, the Subordinate Legislation Committee considered the instrument and had no comment to make on it. Before the motion to annul is moved, I invite Nanette Milne to speak in support of it.

Mrs Milne: As I said at the outset, I am behind the proposal that all dental professionals be registered. I lodged the motion to annul so that we could discuss those denturists who do not have a recognised qualification that would allow them to register with the General Dental Council.

The evidence that we have taken this morning has been extremely helpful. The Scottish Executive and the General Dental Council have shown signs of being co-operative and have exhibited a willingness to assist—in whatever way they can—denturists to reach a position in which they can qualify for registration with the GDC.

We have heard from the Association for the Promotion of Denturism that although the precise figures are not known, it thinks that the majority of its people are trained as dental technicians. The organisation took comfort from the fact that there will be a two-year period during which people who have no formal qualification will be able to gain a basic training in dental technology, which will qualify them to undertake the training that is necessary for them to become clinical dental technicians.

It is clear that if the instrument comes into effect, the illegal practice of denturism will not change in any material sense on 31 July. I have probably heard enough to satisfy me that there is insufficient reason to delay the registration of all dental professionals beyond 31 July. I am encouraged that a willingness to co-operate with the people involved has been demonstrated this morning. At this point, I see no need to proceed with my motion to annul.

The Convener: Will you confirm that you do not intend to move motion S2M-4568?

Mrs Milne: That is my intention.

The Convener: As there is no other name in support of the motion, no further action can be taken on it. I thank the minister and his officials for their attendance; they are now free to leave, if they wish.

Under rule 10.4 of standing orders, the committee is required to report to the Parliament on the instrument. Are we agreed that we do not wish to make any recommendation on SI 2006/1440?

Members indicated agreement.

Contaminants in Food (Scotland) Regulations 2006 (SSI 2006/306)

National Health Service (Superannuation Scheme and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2006 (SSI 2006/307)

Human Tissue (Specification of Posts) (Scotland) Order 2006 (SSI 2006/309)

Approval of Research on Organs No Longer Required for Procurator Fiscal Purposes (Specified Persons) (Scotland) Order 2006 (SSI 2006/310)

Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2006 (SSI 2006/314)

National Health Service (Pharmaceutical Services) (Scotland) Amendment (No 3) Regulations 2006 (SSI 2006/320)

National Health Service (General Dental Services) (Scotland) Amendment (No 2) Regulations 2006 (SSI 2006/321)

Human Tissue (Removal of Body Parts by an Authorised Person) (Scotland) Regulations 2006 (SSI 2006/327)

Anatomy (Specified Persons and Museums for Public Display) (Scotland) Order 2006 (SSI 2006/328)

National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2006 (SSI 2006/329)

National Health Service (Discipline Committees) (Scotland) Regulations 2006 (SSI 2006/330)

Anatomy (Scotland) Regulations 2006 (SSI 2006/334)

Human Tissue (Scotland) Act 2006 (Anatomy Act 1984 Transitional Provisions) Order 2006 (SSI 2006/340)

**Human Tissue (Scotland) Act 2006
(Maintenance of Records and Supply of
Information Regarding the Removal and
Use of Body Parts) Regulations 2006
(SSI 2006/344)**

12:00

The Convener: Item 3 on the agenda is the consideration of negative instruments. One of the instruments listed on the agenda—SSI 2006/343—was withdrawn by the Executive on 27 June and will be relaid at a later date, so we are not required to consider it today.

The Subordinate Legislation Committee commented on four of the remaining instruments. On SSI 2006/306, it requested clarification as to why sampling requirements that were set out in the previous version of the regulations were omitted from these. Apparently, the Food Standards Agency Scotland has advised that the requirements are now being met by virtue of European regulation.

On SSI 2006/307, the Subordinate Legislation Committee had some concerns about defective drafting in the regulations, which I understand that the Executive is to correct after the recess.

On SSI 2006/314, the Subordinate Legislation Committee had an issue with the clarity of the drafting of regulation 9(4). The FSA will clarify that at the next available legislative opportunity.

On SSI 2006/321, the Subordinate Legislation Committee was concerned about defective drafting, which I understand the Executive is moving to correct. The Executive plans to consolidate the regulations during the first quarter of 2007.

The Subordinate Legislation Committee raised no issues in respect of the remaining instruments. No comments have been received from members and no motions to annul have been lodged. Do we agree that the committee does not wish to make any recommendation in relation to the instruments?

Members indicated agreement.

Hepatitis C

12:02

The Convener: At our meeting on 18 April, the committee agreed to call for a full public, judicial inquiry into the treatment of people who were infected with hepatitis C through NHS treatment, with a particular focus on the efficacy of the look-back exercise. The committee was particularly concerned about the comprehensiveness of the exercise to trace those who might have become infected and whether further action might be necessary to trace all those who might have been infected.

A response from the Minister for Health and Community Care has been received and is with the papers that were sent out to members. I draw to members' attention the minister's concluding paragraph, in which he states:

"I do not believe a public inquiry would either uncover any new evidence or information that is relevant to the causes of the infection of NHS patients through blood or blood products, or lead to significant lessons for the future. It would be a diversion of effort from delivering and improving health services today. I cannot see that there is any possible justification for the efforts and costs that would be involved, or that this would bring any benefit to the patients involved."

The committee has also received a response to the minister's letter from the Scottish Haemophilia Forum, which also forms part of the committee's papers, and a further letter from the forum that was received only yesterday—I believe it has been circulated to members—requesting that the committee continue to support the call for an independent inquiry.

I invite members to consider the ministerial response and the correspondence in our hands from the Scottish Haemophilia Forum.

Kate Maclean (Dundee West) (Lab): Whatever people think about whether there should be an independent inquiry, the minister has made it clear in his letter that he will not have a public inquiry. The last sentence of his letter states:

"On the basis of this position I would ask the Committee to reconsider the decision regarding the call for a public enquiry."

I do not think that the committee is in a position to reconsider its decision. We have taken evidence from a number of organisations over many months and the situation has been going on for years. We came to a conclusion based on the evidence; it was not based on nothing or on a whim. I do not think that the committee is in a position to reconsider its decision. If we were going to reconsider it we would have to go back and start taking evidence again.

The minister has made his decision and I do not think that he will change it, but I do not think that the committee can now revisit all the evidence and reconsider its decision. It is a little bit insulting of the minister to ask the committee to reconsider the decision, because it gives the impression that it was taken lightly, but it was not. I did not support the call for a public inquiry, but committee members made a considered, informed decision to ask for a public inquiry and we should not go back and reconsider it again.

Janis Hughes (Glasgow Rutherglen) (Lab): I accept what Kate Maclean is saying. This committee and the Health and Community Care Committee in the previous session of Parliament—the convener of that committee, Margaret Smith, is here today—stated that if new evidence was brought forward it should be considered. I accept the minister's response that in his opinion there is no new evidence. Therefore, I do not think that we should push the matter any further.

The Convener: That is a slightly different issue from the one that Kate Maclean talked about.

Shona Robison: I agree with Kate Maclean. It is unwise for a minister to write to a committee to ask it to reverse a decision. Apart from anything else, it sets a bad precedent. The minister's request is not particularly helpful.

There is a lot in the letter that I think is challengeable. My suggestion is that we note the letter, but ask for a written response from those who raised the issue in the first place. It is right and proper that they at least get a chance to respond to the letter.

The Convener: I draw committee members' attention to the last paragraph of the letter dated 24 June received from the Scottish Haemophilia Forum. The letter indicates that the forum is seeking a meeting with the minister and that it has received correspondence suggesting that such a meeting may be arranged within the next few weeks. To be honest, I am uncomfortable about our doing anything prior to that meeting. We should continue to have a watching brief, because if discussions are on-going the issue remains live and we should acknowledge that that is the case. We can ask for a more detailed response to the minister's letter, but my guess is that in any case it would not come until representatives of the forum have met the minister.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): I am pleased that you made those comments, convener. There comes a stage when we must examine our role as a committee. We are not a campaigning organisation for the Scottish Haemophilia Forum. We are not an adjunct to it or part of it. We examine the evidence.

A lesson for the committee—and all committees, notwithstanding Kate Maclean's comment that the decision was made after a great amount of evidence was taken—is that committees are more effective at holding the Executive to account when they make unanimous decisions with cross-party consensus. Unfortunately, that was not the case on this issue.

Margaret Smith is here today and we are tempting her into saying something. We should acknowledge that the Health and Community Care Committee did a great job for the hepatitis C victims. It set a pace not only in Scotland but in the United Kingdom. None of that is recognised. The situation will not just go away. Pandering to populism by saying that we should get another letter and another letter from the forum and thereby keeping the issue on the agenda is cruel in the extreme. It is not fair on the people that we are representing and it is not fair on the committee. We must give time to many other issues. Over the past two sessions, our health committees have not given this much time to any other matter. Given the challenges that we face in the health service, we need to look to ourselves.

The Convener: I point out that it is the minister who has invited us to reopen the issue.

Mr McNeil: We have made our decision.

The Convener: That is it—the decision is on the table and it would not be appropriate for the Health Committee to start revisiting the matter. Indeed, it would not be appropriate for any committee to revisit a decision that has only just been made, because the process would never end.

Kate Maclean: I agree absolutely with Duncan McNeil. As far as I am concerned, the committee made a decision and the minister has said that he does not want to go down that route. I see no point in asking for letters from any organisation. The ball is firmly in the minister's court. He has made a decision and he can meet people and get further responses from anyone he likes.

It is not that I have no sympathy for the hep C sufferers who we have dealt with over the years, but we need to draw a line under the matter and not ask for more letters or submissions. We need to be honest about the fact that the committee has made a decision. We did our best and now we should move on and leave the ball very firmly in the minister's court.

Margaret Smith: It is difficult to know where to start and end.

The Convener: Briefly, is the answer.

Margaret Smith: The Health and Community Care Committee gave a great deal of time to the matter in the first session, with some success. Those of us who served on that committee were

left thinking that we would have liked to do more, but the people who are left suffering feel that much more acutely.

I am a substitute on the current Health Committee so I will not make a definitive judgment on what the committee should do about a decision that you took following evidence taking. However, the committee has made its decision and it is not for the minister to tell the committee to change it.

The Scottish Haemophilia Forum hopes to have another meeting with the minister. The minister has sent quite a detailed response to the committee. Given that no real work will be done over the summer recess anyway, it would be reasonable to ask the Scottish Haemophilia Forum to respond if there are what it considers to be any factual inaccuracies in the minister's response. However, we should not reopen the matter simply to continue the debate.

It would be good to return from the recess to a final response from the forum and an update on what happened during the meeting with the minister. The committee cannot be expected to revisit a decision that was based on evidence that it took.

Dr Turner: I agree with practically everything that has been said. I read the detailed letter from the minister and it did not change my mind. I was stunned by the last sentence—if the minister did not want there to be an inquiry, what did he expect us to do? He did not like our decision so are we expected to change it? We could not change that decision other than by taking much more in-depth evidence, which would almost be like another inquiry. I do not see how we could do that. I feel sorry for those haemophiliacs, but we have decided that that is the end of the matter.

The Convener: I propose that I write to the minister to thank him for the detailed response to our report that he gave in his letter and to say that we do not consider it appropriate to reverse the committee's decision. Further, I will say that we understand that he is in discussions with the Scottish Haemophilia Forum about a possible meeting and that we are interested in the outcome of that discussion. We should also write in similar terms to the forum. At this stage, I see no reason for the matter to be put on a future agenda unless something changes considerably. Is that agreed?

Members *indicated agreement.*

The Convener: That ends our business. I wish members happy holidays. Our next meeting is on 5 September, when we will consider our approach to the Health Board Elections (Scotland) Bill and begin taking evidence on the Adult Support and Protection (Scotland) Bill.

I advise members that the care inquiry debate will take place on the afternoon of 20 September. I also point out that I have lodged a health question, on transport to and from hospitals, which I will ask in the chamber tomorrow.

Meeting closed at 12:15.

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