Chapter 2

Regulation of Chinese Medicine Practitioners

Registration System for Chinese Medicine Practitioners

The Chinese Medicine Ordinance stipulates a registration system for Chinese medicine practitioners (CMPs). This system protects the rights and health of patients, ensures the professional standards and conduct of Chinese medicine practitioners and, hence, establishes the statutory professional status of Chinese medicine practitioners in Hong Kong.

According to the Chinese Medicine Ordinance, any person who intends to practise Chinese medicine in Hong Kong must apply for registration with the Chinese Medicine Practitioners Board (the Practitioners Board) of the Chinese Medicine Council of Hong Kong (the Council). Before he/she may apply to become a registered CMP, he/she must have satisfactorily completed such undergraduate degree course of training in Chinese medicine practice, or its equivalent, as may be approved by the Practitioners Board, and must have passed the licensing examination conducted by the Practitioners Board.

Transitional Arrangements

Chinese medicine practice has a long history in Hong Kong. Some CMPs had been practising Chinese medicine in Hong Kong for many years before the registration system for CMPs was introduced. In order not to force such CMPs out of practice immediately upon the implementation of the registration system, the Chinese Medicine Ordinance provided for transitional arrangements for the registration of CMPs. Under the transitional arrangements, any CMP who was practising Chinese medicine in Hong Kong on 3 January 2000, may apply to the Practitioners Board for listing as a listed CMP within the application period specified by the Practitioners Board (the application period was closed on 30 December 2000). The Practitioners Board completed the assessment on the practising experience and academic qualifications of all listed CMPs to determine their alternative qualifying requirements for registration in the end of 2002. They were classified into five categories, and may be eligible to apply for registration through one of three channels of “Direct Registration”, “Attending the Registration Assessment” and “Attending the Licensing Examination”.

The five categories are as follows:

- **First Category:** Listed CMPs who have satisfied the Practitioners Board of practising Chinese medicine in Hong Kong for a continuous period of at least 15 years immediately before 3 January 2000, will be exempted from the Licensing Examination and Registration Assessment, and may apply directly to become a registered CMP.

- **Second Category:** Listed CMPs who have satisfied the Practitioners Board of their practising Chinese medicine in Hong Kong for a continuous period of at least 10 years (but less than 15 years) immediately before 3 January 2000, and have obtained a qualification acceptable to the Practitioners Board, may be exempted from the Licensing Examination and the Registration Assessment, and may apply directly to become a registered CMP.
Third Category: Listed CMPs who have satisfied the Practitioners Board of their practising Chinese medicine in Hong Kong for a continuous period of at least 10 years (but less than 15 years) immediately before 3 January 2000, but have not obtained a qualification acceptable to the Practitioners Board, will be exempted from the Licensing Examination, but they must pass the Registration Assessment before they may apply to become a registered CMP. If they fail the Registration Assessment, they will be required to take the Licensing Examination.

Fourth Category: Listed CMPs who have satisfied the Practitioners Board of their practising Chinese medicine continuously in Hong Kong for a period of less than 10 years immediately before 3 January 2000, and have obtained a qualification acceptable to the Practitioners Board, will be exempted from the Licensing Examination, but they must pass the Registration Assessment before they may apply to become a registered CMP. If they fail the Registration Assessment, they will be required to take the Licensing Examination.

Fifth Category: Listed CMPs who have satisfied the Practitioners Board of their practising Chinese medicine continuously in Hong Kong for a period of less than 10 years immediately before 3 January 2000, but have not obtained a qualification acceptable to the Practitioners Board, will be required to pass the Licensing Examination before they may apply to become a registered CMP.

Registered Chinese Medicine Practitioners and Listed Chinese Medicine Practitioners

In 2007, 307 CMPs were registered as registered CMPs. Among them, 304 persons were registered through passing the Licensing Examination (including 276 non-listed CMP persons, who possessed an undergraduate degree of training in Chinese Medicine Practice recognised by the Practitioners Board, and 28 listed CMPs under the transitional arrangements for registration of CMPs), 1 listed CMP passed the Registration Assessment and 2 listed CMP were exempted from the Licensing Examination and Registration Assessment for direct registration under the transitional arrangements.

On 31 December 2007, there were 5,540 registered CMPs and 2,847 listed CMPs in Hong Kong. Most of the registered CMPs have been registered under the transitional arrangements for registration of CMPs, including 2,367 through direct registration, 1,829 through passing the Registration Assessment and 625 through passing the Licensing Examination. The remaining 719 CMPs are non-listed CMPs, including 521 graduates from local universities and 198 graduates from non-local universities, and they all possessed an undergraduate degree in Chinese Medicine Practice. For the numbers of CMPs, please refer to Table 3, page 88.

A registered CMP must apply for a valid practising certificate before he/she is allowed to practise in Hong Kong. The usual validity period of a practising certificate is three years. As the expiry date of the practising certificate approaches, the registered CMP may apply to renew the certificate, provided that he/she has fulfilled the requirements of continuing education in Chinese medicine, as determined by the Practitioners Board.
The Practitioners Board and the Registrar of CMPs will regularly publish the List of listed CMPs, and the Register of registered CMPs, in the Gazette. The general public may also view the latest List of listed CMPs and Register of CMPs on the website of the Council.

Limited Registration

The Chinese Medicine Ordinance also provides a system of Limited Registration of CMPs, to facilitate the engagement of Chinese medicine experts in performing clinical teaching and research in Chinese medicine in the specified institution. Educational and scientific research institutions approved by the Practitioners Board may apply, on behalf of the Chinese medicine experts under their employment, for CMPs with limited registration for the conduct of Chinese medicine clinical teaching and/or research, to promote the development of Chinese medicine in Hong Kong under the limited registration system.

Based on this principle, successful applicants for limited registration should meet the needs of the development of Chinese medicine in Hong Kong. They must be experienced educational and research personnel, possessing such academic qualifications and experience as may be approved by the Practitioners Board. CMPs with limited registration may only engage in clinical teaching and/or research in Chinese medicine in an employing institution approved by the Practitioners Board. They are not permitted to engage in private practice with patients.

As promulgated by the Practitioners Board in the Gazette, six educational and scientific research institutions in Hong Kong may apply, on behalf of the Chinese medicine experts under their employment, for CMPs with limited registration. The six institutions are the University of Hong Kong, the Chinese University of Hong Kong, the Baptist University of Hong Kong, the Hong Kong Polytechnic University, the City University of Hong Kong and the Hospital Authority. At the end of 2007, there were 79 registered CMPs with limited registration in Hong Kong.

Chinese Medicine Practitioners Licensing Examination

The Chinese Medicine Practitioners Licensing Examination is a unified professional Chinese medicine examination conducted by the Practitioners Board, in accordance with section 59(1) of the Chinese Medicine Ordinance. Listed CMPs and non-listed CMP persons must sit for the same licensing examination, to obtain the required qualifications for registration as a registered Chinese Medicine Practitioner. The first CMPs Licensing Examination was held in 2003, and such examinations have been held annually since then.

According to the Chinese Medicine Ordinance, non-listed CMP persons have to satisfy the Practitioners Board that they had completed a recognised undergraduate degree course of training in Chinese Medicine, or its equivalent (as is approved by the Practitioners Board), to be eligible to sit the examination. The basic requirements of the recognised courses as set out by the Practitioners Board were:

- A full-time on-campus degree course with a duration of no less than 5 years;
- Such course must include the following 10 compulsory subjects as designated by the Practitioners Board:
  1. Basic Theories of Chinese Medicine;
  2. Diagnostics of Chinese Medicine;
  3. Chinese Materia Medica;
  4. Chinese Medicinal Formulary;
  5. Internal Medicine of Chinese Medicine;
  7. Gynaecology of Chinese Medicine;
  8. Paediatrics of Chinese Medicine;
  10. Acupuncture and Moxibustion;
- Such course must include clinical training of not less than
30 weeks. Other than the clinical internship and clinical practice, the course must be fully conducted in the school awarding the bachelor degree in Chinese medicine;

- The course should not be a distance-learning course (i.e. correspondence course, internet course or self-learning course); and

- The course should fulfill the basic requirements of university and clinical teaching (for example: instructional facilities, instructional management, library service, teachers’ qualifications, student admission standards, clinical practice, etc).

The CMPs Licensing Examination consists of Part I (Written Examination) and Part II (Clinical Examination). For Part I (Written Examination), all questions are multiple-choice questions and are divided into Paper 1 and Paper 2. The syllabus of Paper 1 includes Basic Theories of Chinese Medicine and Diagnostics of Chinese Medicine, Chinese Materia Medica and Chinese Medicinal Formulary, Classics of Chinese Medicine (including Canon of Chinese Medicine, Treatise on Exogenous Febrile Diseases, Synopsis of the Golden Chamber, Seasonal Febrile Diseases, Ancient Chinese Medical Prose, and History of Chinese Medicine and Various Theories of Chinese Medicine), Modern Basic Medical Science, Health Maintenance and the Preservation of Chinese Medicines, and Hong Kong Healthcare System and the Regulatory System of Chinese Medicine. The syllabus of Paper 2 includes Internal Medicine of Chinese Medicine, Gynaecology of Chinese Medicine, Paediatrics of Chinese Medicine, Acupuncture and Moxibustion, and Orthopaedics and Traumatology of Chinese Medicine. Candidates are required to analyse and answer 2 different cases: 1 complete case and 1 incomplete case. The purpose of the Clinical Examination is to test the candidates’ fundamental knowledge and skill in Chinese medicine. A candidate who passes the Written Examination is qualified to take the Clinical Examination. Candidates who pass both parts of the examination are qualified to apply for registration as registered CMPs.

The result of a pass in the Written Examination is valid for 5 years. If a candidate cannot pass the Clinical Examination within those 5 years, he/she must re-sit and pass the Written Examination before being eligible to attempt the Clinical Examination again.

To ensure the fairness of the examination, an overseas examiner is appointed by the Practitioners Board every year, to monitor the examination process.

The 2007 CMPs Licensing Examination

The Practitioners Board revised some of the rules and contents of the examination in 2007, including (i) candidates may retain the result of a pass in either paper of the Written Examination which is taken in 2007 or thereafter, and choose to re-sit the other paper within 3 years; (ii) re-organise the subjects of the Written Examination to include 6 subjects for Paper 1 and 7 subjects for Paper 2, with a total of 13 subjects for the two papers; (iii) simplify the question form of the multiple choice questions; (iv) candidates may choose the clinical cases to answer (there are 4 cases of different subjects, including 2 “complete cases” and 2 “incomplete cases” for the candidates to choose from. The 4 cases are selected from the 6 designated subjects of the Clinical Examination. Candidates are required to analyse
and answer 2 different cases: 1 “complete case” and 1 “incomplete case”).

The application period for non-listed CMP persons was from 15 September to 26 October 2006, whereas the application period for listed CMPs was from 15 September 2006 to 30 March 2007. A total of 772 candidates applied to take the examination, including 388 non-listed CMP persons, and 384 listed CMPs.

The pass mark of the Written Examination of the 2007 Licensing Examination was 55%, out of a total of 300 marks [i.e. 165 marks], whereas the pass mark of the Clinical Examination was 60% out of a total of 200 marks [i.e. 120 marks].

The Written Examination was conducted on 18 and 20 June 2007. A total of 743 candidates enrolled for the examination, including 359 non-listed CMP persons and 384 listed CMPs. 718 candidates actually sat the examination and 362 candidates (50.4% of candidates) passed the Written Examination.

The Clinical Examination was conducted from 3 August to 16 August 2007. A total of 448 candidates, including 363 non-listed CMP persons and 85 listed CMPs, enrolled for the Clinical Examination. 444 candidates actually attended the Clinical Examination, and 322 candidates (72.5% of candidates) passed the Clinical Examination.

**Arrangements of the 2008 CMPs Licensing Examination**

The Written Examination and the Clinical Examination of the 2008 CMPs Licensing Examination will be conducted in June and August 2008, respectively.

The “Candidates’ Handbook for the 2008 Chinese Medicine Practitioners Licensing Examination” was published in September 2007. It sets out the list of 31 recognised Chinese medicine institutions, the basic requirements of the recognised courses, the application procedures, the syllabus of the Written and Clinical Examinations, the format of the examination and the sample questions, etc. This handbook is available from the Council’s Secretariat, or can be downloaded from the website of the Council.

The Practitioners Board accepted applications from non-listed CMP persons, to undertake the 2008 Chinese Medicine Practitioners Licensing Examination from 14 September 2007 to 25 October 2007. The deadline for application for listed CMPs was 28 March 2008.

**Renewal of Practising Certificate of Registered CMPs**

In accordance with section 76 of the Chinese Medicine Ordinance, a registered CMP must apply for a valid practising certificate before he/she is allowed to practise in Hong Kong. The usual validity period of a practising certificate is three years. Before a registered CMP is issued with the renewed practising certificate, he/she must fulfill the requirements of continuing education in Chinese medicine, as determined by the Practitioners Board.

There were 262 registered CMPs whose practising certificates expired in 2007. Most of them passed the licensing examination in 2004. From 2006 till the end of 2007, 2,547 registered CMPs renewed their practising certificates. If the application for renewal of practising certificate of a registered CMP is under processing, in accordance with section 80 of the Chinese Medicine Ordinance, he/she may continue to practise in Hong Kong, until the Practitioners Board has made a decision on the application. Besides, a small number of CMPs stated that they do not wish to continue to practise Chinese medicine in Hong Kong (due to retirement or other considerations), and so they have decided not to apply to renew their practising certificates.
In accordance with the Chinese Medicine Ordinance, if a registered CMP practises Chinese medicine without obtaining a practising certificate over a period exceeding 6 months since the expiry of his/her practising certificate, the Practitioners Board may act in accordance with section 56(1)(d) of the Chinese Medicine Ordinance, to order the removal from the Register the name of that registered CMP.

The System of Continuing Education in Chinese Medicine for Registered CMPs

To ensure registered CMPs continuing enriching their professional knowledge and skills, grasping the latest developments in their professional and practice areas, and to maintain their professional standard through a unified and structured system, the Chinese Medicine Ordinance stipulates in sections 76 and 82 that registered CMPs must fulfill the requirements of continuing education in Chinese medicine (CME), as prescribed by the Practitioners Board, before they can renew their practising certificates.

The Practitioners Board formulated the CME system for registered CMPs in 2004, after conducting extensive consultations with the profession, and the CME system was implemented from 28 February 2005.

The CME system’s administration comprises the Practitioners Board, accredited CME Administrators, CME Programme Providers and registered CMPs. After rigorous assessment by the Practitioners Board, there were 11 local CMPs associations and 30 local Chinese medicine training institutions accredited by the Practitioners Board as accredited CME Administrators, and CME Programme Providers, respectively. For the lists of accredited CME Administrators and CME Programme Providers, please refer to Appendix 2(1) & 2(2), page 92-93. The CME Administrators are responsible for recording and maintaining the personal CME records and information of their registered CMPs. The CME Programme Providers are responsible for organising CME courses and programmes. For training courses or activities provided by organisations other than accredited CME Programme Providers, the organiser(s) may apply to the Practitioners Board for accreditation as Individual CME Programmes. Registered CMPs will also be awarded CME points if they participate in accredited Individual CME Programmes.

According to the requirements of the CME system, each registered CMP must select on their own an accredited CME Administrator, to set up their personal CME record. On 31 December 2007, there were 5,540 registered CMPs and of these, about 4,623 have set up their personal CME records. Besides, each registered CMP must acquire CME points within the CME cycle set by the Practitioners Board, by participating in accredited CME activities and programmes, such as CME courses, seminars, academic conferences, publishing theses and other publications, self-study, etc.

Under normal circumstances, registered CMPs should acquire not less than 60 CME points within each three-year cycle, before they can renew their practising certificates. Since the implementation of the CME system, most CMPs have actively participated in such CME programmes, to enrich their professional knowledge.

Following the requirements of the CME system, all accredited CME Administrators and Programme Providers submitted their second working reports [for the period 1 August 2005 to 30 November 2006] to the Practitioners Board, in December 2006. The Practitioners Board has completed the second review of the implementation of the CME system and wrote to all accredited CME institutions to promulgate the evaluation of their working reports, progress of the implementation of CME, and the results of this review, on 30 July 2007. The second reports submitted by the accredited CME Administrators and Programme Providers reveal that their overall performance met the required standard of the Practitioners Board, and all of them were...
approved to continue to be the accredited CME institutions. The Practitioners Board will conduct the third review of the system in early 2009.

To facilitate those registered CMPs who are taking Chinese medicine courses organised by Mainland tertiary institutions to acquire CME points, the Practitioners Board has approved the Chinese medicine courses (including full-time, part time, correspondence, online and clinical courses) organised by 29 Mainland tertiary institutions, as accredited CME courses. For the lists of accredited institutions, please refer to Appendix 2(3), page 94. Registered CMPs who take such courses may, following the guidelines set out by the Practitioners Board, apply to their CME Administrators for assessing the CME points gained from participating in such courses.

Detailed information on CME, such as the overall structure, scope, CME cycle, requirements, points assessment system of CME programmes, and lists of accredited CME institutions, can be viewed at the website of the Council.

The National Qualification Examination for Doctors

According to the “Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA)”, Hong Kong permanent residents who have acquired a full-time Chinese medicine degree from the Chinese University of Hong Kong, the Hong Kong Baptist University or the Hong Kong University and are legally eligible to practise in Hong Kong, may apply to the Council Secretariat to sit the National Qualification Examination for Doctors (Traditional Chinese Medicine) on the condition that they have completed one year's internship in a level III traditional Chinese medicine hospital in the Mainland, and have passed the performance test; or that they have been licensed to practise in Hong Kong for more than one year with a valid practising certificate after acquiring the aforementioned academic qualification and the eligibility to practise in Hong Kong.

The application notice for the 2007 National Qualification Examination for Doctors (Traditional Chinese Medicine) was published on Hong Kong newspapers on 4 April 2007 and the application period was closed on 25 April 2007. The Council Secretariat received only one such application.

Hong Kong permanent residents who are interested to apply to take the National Qualification Examination for Doctors (Traditional Chinese Medicine) may call the Council Secretariat in early April each year. Details are available at the website of the Ministry of Health of the People's Republic of China (www.moh.gov.cn) and that of the National Medical Examination Centre (www.nmec.org.cn).

Practice of CMPs

Practice Conduct of Registered CMPs and Listed CMPs

The Practitioners Board has compiled “Code of Practice for Registered Chinese Medicine Practitioners in Hong Kong” and “Code of Practice for Listed Chinese Medicine Practitioners” to uphold professional standards, as well as to regulate the practice conduct of the registered CMPs and listed CMPs. The codes set out the requirements with which the registered and listed CMPs should comply, in respect of professional responsibility, professional ethics, practising criteria, medical practice and practice promotion. To enhance the CMPs' understanding of the practising criteria, the Practitioners Board will keep the CMPs informed of points to note through newsletters issued by the Practitioners Board, from time to time. It is also expected that the CMPs will contribute to the maintenance of their professional image by their professional self-discipline.
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Use of an Alias in the Practice of Chinese Medicine

CMPs are required to use the name recorded in the list/register of CMPs when providing practising information to the public, failing which, they may contravene the codes of practice and may be investigated by the police for the suspected unlawful practice of Chinese medicine.

CMPs who intend to use an alias should register with the Immigration Department and submit the “Certificate of Registered Particulars” issued by the Immigration Department to the Practitioners Board for acceptance, before using an alias in their practice. Such an alias will be updated simultaneously in the Council’s website, and in the annual gazetted list of registered and listed CMPs.

CMPs who have completed the alias registration procedures can either use the name recorded in the list/register of CMPs and/or the alias in their practice. In case the alias registration procedures have not yet completed, the CMPs can only use the name recorded in the list/register of CMPs. Those CMPs who have been reminded by the Practitioners Board should complete the alias registration procedures in twelve weeks. If CMPs continue to use unregistered aliases in their practice, the Practitioners Board will handle these cases in accordance with the disciplinary procedures.

Quotable Qualifications and Titles of Registered CMPs

The “Code of Practice for Registered Chinese Medicine Practitioners in Hong Kong” stipulates that registered CMPs may exhibit to the public those qualifications and titles approved by the Practitioners Board on signs, signboards, stationery, newspaper announcements, telephone directories and internet websites. Taking into full consideration the regulations as set out in the Chinese Medicine Ordinance and the Code of Practice for registered CMPs; qualifications currently possessed by registered CMPs; historical factors; the actual situation of the training of CMPs; the requirements of professional standards on the qualifications and titles to be displayed; the future development of the profession; and similar rules and requirements as set out by other medical professions, the Practitioners Board considered that title of “registered CMP” could fully reflect the professional qualifications of registered CMPs. The Practitioners Board announced through its newsletter in February 2004 that, according to section 74 of the Chinese Medicine Ordinance, only the title of “registered CMP” could be exhibited. It was also stated that registered CMPs could exhibit their other qualifications in their practising clinics, provided that the exhibited information is accurate, and not misleading.

Keeping of Medical Records

It is stipulated in the codes of practice that a CMP should maintain personal medical records for patients under his/her care. In response to the recommendation made by a coroner following a Death Inquest, the Practitioners Board interpreted these codes and again reminded CMPs that the Practitioners Board has detailed requirements on setting up, and maintaining personal medical records for patients, through the newsletter and letter. CMPs are required to record in the personal medical records patients’ names, gender, consultation dates, contact details, diagnosis, treatments applied, etc. This interpretation will be incorporated in the re-printed codes. Professional misconduct of Chinese medicine practice will occur if CMPs do not meet the requirements of setting up and maintaining proper personal medical records. The Practitioners Board and Disciplinary Committee (DC) would review these cases, with the application of stringent standards.

Details of Prescription

It is stipulated in the codes of practice that a CMP should issue prescriptions to patients. The CMP should not
charge unreasonable charges for issuing prescriptions, and prescriptions should not be issued only when at the patients’ request. The Practitioners Boards reminded CMPs that the prescriptions issued to patients should conform with professional standards, and CMPs should refrain from prescribing excessive medicines; all issued prescriptions should be clear and legible; issued prescriptions should include the names of all Chinese medicines, quantities, number of times for re-dispensing, method of use of the proprietary Chinese medicines, and the name and signature of the CMPs. Besides, if the proprietary Chinese medicine has been registered with the Chinese Medicine Board, the CMP should include the name and manufacturer of the proprietary Chinese medicine in the prescription, and may issue the prescription together with a copy of the package of the proprietary Chinese medicine to the patient. Moreover, the names of such Chinese herbal medicines should be based on the names in the Schedules of the Chinese Medicine Ordinance. Chinese herbal medicines not listed in the Schedules should be based on the names in the “Pharmacopoeia of the People’s Republic of China”, the “Chinese Materia Medica”, the “Dictionary of Chinese Herbal Medicines” or the “Chinese Herbal Medicines”. If the details of more than one clinic are shown on the prescription, the CMP should state clearly on it, at which clinic the patient received the treatment. Verbal information, or information not issued to the patient together with the prescription, should not be treated as part of the prescription.

Exemption from Issuing Prescriptions to Patients

According to the codes of practice, CMPs should issue prescriptions to patients. Having regard to the circumstance that a control group and a treatment group of patients need to be set up when CMPs conduct Chinese medicine research in universities, the Practitioners Board decided that if the patients participating in such research have signed an agreement not to have the prescriptions, and the related research has attained the approval from the ethics committee of university, Hospital Authority or relevant organisation, the CMPs participating in that research can be exempted from observing those requirements, as stipulated in the codes of practice.

Exemption from Registration of Proprietary Chinese Medicines

According to section 158 of the Chinese Medicine Ordinance, a proprietary Chinese medicine (pCM) is not required for registration under section 119 if it is compounded by, or under the supervision of, a registered CMP or listed CMP, or prepared or compounded by a responsible person of a licensed retailer of Chinese herbal medicines, or under his supervision, in accordance with a prescription given by a CMP, if, and only if, such pCM is being used for the purpose of administering or supplying to a patient under his direct care. As CMPs may sometimes, due to technical problems, entrust a pCM manufacturer to manufacture pCM for their patients in accordance with the prescriptions given by him, section 37 of the Chinese Medicines Regulation provides an exemption for such pCms from registration. To ensure the safety and quality of pCM and that such pCms will not be sold openly, the Chinese Medicines Regulation stipulates that the pCM shall be manufactured by, or under the supervision of a responsible person, in accordance with a prescription given by a registered CMP, or listed CMP, for patients under their direct care, at the premises in respect of which a manufacturer licence is in force. The manufacturer is required to submit a written notification and an undertaking, given by the registered CMP, or listed CMP, to the Chinese Medicines Board at least one working day before the day on which the manufacturing process of the medicine begins. The notification shall include the details as listed in section 37(2) of the Chinese Medicines Regulation, including the quantity and dose form of the medicine to be manufactured, the names and quantities of each ingredient listed in the prescription, the name and address of the
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registered CMP or listed CMP, and the date from which the CMP entrusts the manufacturer to manufacture the pCm. The registered CMP or listed CMP has to state in the written undertaking that the medicine will only be used for patients who are under his or her direct care, or used for only one patient (if the medicine is for internal application).

Besides, to foster the best usage of Chinese herbal medicines issued by the CMPs to the patients under his or her direct care, to meet the appropriate standards of practice, the Practitioners Board has distributed Practising Guideline for Retailers of Chinese Herbal Medicines (Guideline) to all CMPs, through the Practitioners Board newsletter. This Guideline covers the aspects of personnel, premises, scope of business, keeping of records, processing of herbal medicines, preparing or compounding preparations, and dispensing single Chinese medicine granules for prescription. This Guideline has also been uploaded to the Council’s website.

Medical Functions of Chinese Medicine Practitioners under the Labour Laws

An amendment of the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Ordinance 2006 (“Amendment Ordinance”), pertaining to the Employment Ordinance, was effective from 1 December 2006. Medical treatment, examination and certification given by registered CMPs are recognized under the Employment Ordinance. Registered CMPs should comply strictly with the codes of practice, to set up and maintain medical records for patients, in order to exercise their rights under the law.

To prepare for the Government’s amendment of the labour laws, the Practitioners Board compiled a reference guide on the issuance of sick leave certificates by registered CMPs in 2004, which includes diseases commonly encountered by Chinese medicine practitioners in Hong Kong and the respective recommended number of days of sick leave. The guide is simply a general reference for registered CMPs on the issuance of sick leave certificates, and is without statutory status. Registered CMPs should issue appropriate sick leave certificates on the basis of their personal professional judgment and the particular circumstances of individual patients. This guide can be viewed at the website of the Council.

Disciplinary Matters of Chinese Medicine Practitioners

Disciplinary Procedure

Upon the receipt of any complaint or information lodged by the public, or information referred by law enforcement departments or by the media, the case would be referred to the Disciplinary Committee (the DC) under the Practitioners Board for follow up, should the information received indicate that misconduct may have been committed by any CMP. The DC will handle the case following the procedure stipulated in the Chinese Medicine Practitioners (Discipline) Regulation, including asking the complainant to submit (or clarify) details of their complaint(s), and inviting the CMP complained of to submit to the DC, in writing, a representation on any matter connected to the complaint. In case the DC is of the opinion that the complaint or information is frivolous or groundless; the subject of the complaint is neither a registered CMP nor a listed CMP; the complaint has been handled before; or a conviction or misconduct committed by the CMP does not affect his/her Chinese medicine professionalism, such complaints or information would not be referred to the Practitioners Board for inquiry.

In accordance with the Chinese Medicine Ordinance, an inquiry conducted by the Practitioners Board comprises a panel of at least five board members (including a lay member). If a registered CMP is found guilty of professional misconduct after due inquiry by the Practitioners Board, the Practitioners Board may, at its discretion, order the
punishment(s) of removing the name of the CMP from the Register, reprimand, or warn the CMP. For listed CMPs, their names may be removed from the list of listed CMPs, after such inquiries. The registered CMP may appeal to the Court of Appeal, and the Court of Appeal may affirm, reverse or vary the order appealed against.

Disciplinary Cases

From 2002 to the end of 2007, a total of 1,372 disciplinary cases were received by the Practitioners Board, including 145 cases received in 2007. For those cases received in 2007, 68 cases concerned medical practice (46.9%), 26 cases concerned practice promotion (17.9%), 24 cases concerned practising criteria (16.6%), 12 cases concerned professional responsibility (8.3%), 8 cases concerned professional ethics (5.5%), 5 cases concerned inappropriate conduct (3.4%) and two cases concerned bankruptcy claimed by CMPs (1.4%). For details of the figures, please refer to Table 2(1), page 85.

Among the 1,372 disciplinary cases received during the period from 2002 to the end of 2007, 1,126 cases (82.1%) were handled and 246 cases (17.9%) were carried forward for handling during 2008. Of the completed cases, 513 cases (45.6%) were dismissed because of insufficient evidence or because of the death of the concerned CMPs; advisory letters were issued to 571 CMPs (50.7%), and 42 cases (3.7%) were subject to inquiry by the Practitioners Board. For details of the disciplinary figures, please refer to Table 2(2), page 85.

The Practitioners Boards held 20 inquiries (involving 17 CMPs) in 2007. After inquiries, the name of one registered CMP was removed from the Register; the name of one registered CMP was removed from the Register for one year; the names of six registered CMPs were to be removed from the Register, but suspended such removal for 1 year to 2 years; three registered CMPs were reprimanded; and warning letters served to two registered CMPs, in accordance with section 98(3) of the Chinese Medicine Ordinance. In addition, the names of two listed CMPs were removed from the list of listed CMPs in accordance with section 91(2) of the Chinese Medicine Ordinance, and the names of two listed CMPs were not removed from the list of CMPs, though the decisions of the Practitioners Board would be put on record for future reference. For details of the inquiry results, please refer to Table 2(3), page 86.

Appeals System

In accordance with section 103 of the Chinese Medicine Ordinance, any person who is aggrieved by an order made in respect of him or her under section 98 may, within one month from the date of service of that order, or within such further time as the Court of Appeal may in special circumstances allow, appeal to the Court of Appeal. The Court of Appeal may affirm, reverse or vary the order appealed against.

From 2002 to the end of 2007, the Practitioners Board has held 19 inquiries concerning 18 registered CMPs. None of them lodged an appeal to the Court of Appeal.

Application for Registration as Registered Chinese Medicine Practitioner

Inquiry Procedure

If it comes to the Practitioners Board's knowledge that an applicant applying for registration as a registered CMP has been previously convicted for an imprisonable offence or professional misconduct, the registration application would be referred to the DC for processing. The DC would, in accordance with the Chinese Medicine Practitioners (Registration) Regulations, handle the application, including obtaining any necessary clarification, evidence and statutory
declarations in relation to the application, as well as inviting the applicant to submit representations. The DC will recommend to the Practitioners Board whether or not an inquiry should be held, after having considered all the evidence. In addition to this, if there is prima facie evidence that a registration applicant intended to obtain registration by fraud or misrepresentation, the Practitioners Board will also conduct inquiries on such applications.

Applications for Registration

Among the registration applications received from 2002 to the end of 2007 by the Practitioners Board, 146 applicants had been convicted of an offence punishable with imprisonment, one applicant was found guilty of professional misconduct, and four applicants attempted to obtain registration by fraud or misrepresentation. Among these 151 applications, 90 applicants were approved for registration without inquiry, taking into account that the nature of their convictions or professional misconduct would not affect their practice of Chinese medicine; nine applicants subsequently withdrew their applications; 34 registration applications were approved after inquiries; 16 registration applications were rejected after inquiries (of which four cases were later approved, after appeal to the Council, and the applicants were registered as registered CMPs); and the remaining two applications were carried forward to the year 2008. For details of the figures, please refer to Table 2(4), page 87.

In 2007, the Practitioners Board conducted inquiries on three applicants with a record of previous conviction for an offence punishable with imprisonment, or professional misconduct. One applicant subsequently withdrew his application, one registration application was approved by the Practitioners Board after inquiries, and one registration application was rejected. For details of the figures, please refer to Table 2(5), page 87.

The Appeals Mechanism

According to section 97 of the Chinese Medicine Ordinance, any person aggrieved by a decision of the Practitioners Board made in the refusal of application for registration, limited registration, or restoration to register may, within 14 days of the receipt of the notification of the decision, appeal against that decision to the Council. The Council may affirm, reverse or vary the decision made by the Practitioners Board appealed against, and the decision of the Council shall be final. If a rejected applicant is a listed CMP, the Practitioners Board will order the removal of his/her name from the list of listed CMPs, in accordance with section 91(1)(b), after the appeals procedure is completed.

From 2002 to the end of 2007, the Council received a total of eight appeals of registration application, and eight appeals of application for limited registration. For the registration application appeals, after the appeal hearings, the Council upheld the decision of four cases made by the Practitioners Board to refuse the registration applications, and changed the decision of four cases made by the Practitioners Board, (i.e., to accept their registration applications). For the limited registration application appeals, after the appeal hearings the Council upheld the decision of six cases made by the Practitioners Board to refuse the registration applications, and changed the decision of two cases made by the Practitioners Board, (i.e., to accept their registration applications).