

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 the 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.

In accordance with the Chinese Medicine Ordinance, a listed CMP who has yet to be registered may continue to practise in Hong Kong by the title of listed CMP under the transitional arrangements, until a date to be determined (and announced in the Gazette) by the Secretary for Food and Health.

Registered Chinese Medicine Practitioners and Listed Chinese Medicine Practitioners

In 2012, 189 persons were registered as registered CMPs through passing the Licensing Examination (including 188 non-listed CMP persons, who possessed an undergraduate degree of training in Chinese Medicine recognised by the Practitioners Board, and 1 listed CMP under the transitional arrangements for registration of CMPs).

On 31 December 2012, there were 6,565 registered CMPs and 2,733 listed CMPs in Hong Kong. Most of the registered CMPs have been registered under the transitional arrangements for registration of CMPs, including 2,261 through direct registration, 1,797 through passing the Registration Assessment and 662 through passing the Licensing Examination. The remaining 1,845 CMPs are non-listed CMPs, including 1,270 graduates from local universities and 575 graduates from non-local universities, and they all possessed an undergraduate degree in Chinese Medicine. For the numbers of CMPs, please refer to Table 2, page 42.

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 registered CMPs on the website of the Council (www.cmchk.org.hk).

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 Hong Kong Baptist University, the Hong Kong Polytechnic University, the City University of Hong Kong and the Hospital Authority. At the end of 2012, there were 74 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 are:

- 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:
 - (i) Basic Theories of Chinese Medicine;
 - (ii) Diagnostics of Chinese Medicine;
 - (iii) Chinese Materia Medica;
 - (iv) Chinese Medicinal Formulary;
 - (v) Internal Medicine of Chinese Medicine;
 - (vi) External Medicine of Chinese Medicine;
 - (vii) Gynaecology of Chinese Medicine;
 - (viii) Paediatrics of Chinese Medicine;
 - (ix) Orthopaedics and Traumatology of Chinese Medicine;
 - (x) 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, Orthopaedics and Traumatology of Chinese Medicine, Acupuncture and Moxibustion, External Medicine of Chinese Medicine, and Ophthalmology and Otorhinolaryngology of Chinese Medicine.

The Part II Clinical Examination is conducted by interview. There are 4 cases of different subjects, including 2 complete cases and 2 incomplete cases. The 4 cases are selected from the 6 designated

subjects, including Internal Medicine of Chinese Medicine, External 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.

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").

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

The 2012 CMPs Licensing Examination

The application period for non-listed CMP persons was from 15 September to 28 October 2011, whereas the application period for listed CMPs and persons who have passed the Part I Written Examination was from 15 September 2011 to 30 March 2012.

The pass mark of the Written Examination of the 2012 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 12 and 14 June 2012. A total of 337 candidates enrolled for the examination, including 282 non-listed CMP persons and 55 listed CMPs. 323 candidates actually sat the examination and 239 candidates (74% of candidates) passed the Written Examination.

The Clinical Examination was conducted from 1 to 13 August 2012. A total of 452 candidates, including 424 non-listed CMP persons and 28 listed CMPs, enrolled for the Clinical Examination. 429

candidates actually attended the Clinical Examination, and 199 candidates (46.4% of candidates) passed the Clinical Examination.

Arrangements of the 2013 CMPs Licensing Examination

The Written Examination and the Clinical Examination of the 2013 CMPs Licensing Examination will be conducted in June and August 2013, respectively.

The “Candidates’ Handbook for the 2013 Chinese Medicine Practitioners Licensing Examination” was published in September 2012. It sets out the list of 33 recognized 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 2013 Chinese Medicine Practitioners Licensing Examination from 17 September to 31 October 2012. The deadline for application for listed CMPs and repeaters will be on 29 March 2013.

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 2,573 registered CMPs whose practising certificates expired in 2012. Among them, 2,446 registered CMPs were issued with the renewed practising certificates. A small number of registered CMPs stated that they would not apply for renewal of practising certificate due to retirement or other considerations. If an 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 Chinese medicine, until the Practitioners Board has made a decision on the application.

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 27 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 59-60. 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 2012, there were 6,565 registered CMPs and of these, about 5,400 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.

According to the requirements of the CME system, all accredited CME Administrators and Programme Providers submitted their working reports to the Practitioners Board in early 2012 for conducting the fourth review. The Practitioners Board completed the review in August 2012. This review covered the period from 1 January 2009 to 31 December 2011. The review revealed that the implementation of the CME system and the overall performance of the accredited CME Administrators and Programme Providers met the required standard. The Practitioners Board informed all the accredited CME Administrators and Programme Providers in writing the review

results and issues to note. Through the Newsletter of the Practitioners Board, the registered CMPs were informed of the issues to note. Based on the review results, revisions have been made in the Handbook on System of Continuing Education in Chinese Medicine for Registered Chinese Medicine Practitioners (the Handbook). The revisions have become effective from 1 January 2013. The revised edition of Handbook was sent to all registered CMPs in December 2012.

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 30 Mainland tertiary institutions, as accredited CME courses. For the lists of accredited institutions, please refer to Appendix 2(3), page 61. Registered CMPs who attend 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 (www.cmchk.org.hk).

Reduction of CME points Required for Registered CMPs Aged 75 or Above

Taking into account the request of the Chinese medicine profession and the difficulties the elderly registered CMPs encountered in pursuing continuing education, the Practitioners Board endorsed in 2012 the reduction of the required CME points for registered CMPs aged 75 or above in each CME cycle from 60 to 30. This arrangement is applicable to the CME cycles of a registered CMP whose CME cycle commences after he/she has reached the age of 75. If a registered CMP aged 75 or above fails to acquire the required CME points in his/her previous cycle, he/she is required to make up the shortfall so as to have his/her practising certificate renewed. This arrangement has taken effect on 29 November 2012, the 10th anniversary of registration of the first batch¹ of registered CMPs.

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 University of Hong Kong and are legally eligible to practise in Hong Kong, may apply 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

¹ The list of the first batch of registered CMPs was announced by the Chinese Medicine Council of Hong Kong on 29 November 2002

and the eligibility to practise in Hong Kong. Detailed information concerning the examination is at the website of the Ministry of Health² (<http://www.moh.gov.cn>) or National Medical Examination Centre (<http://www.nmec.org.cn>).

The application notice for the 2012 National Qualification Examination for Doctors (Traditional Chinese Medicine) was published on Hong Kong newspapers on 5 March 2012. All applicants were required to submit their applications online. Details and the application form were available on the website of the National Medical Examination Centre (<http://www.nmec.org.cn>), and the closing date was 15 March 2012. Applicants who submitted their applications online before the closing date were required to submit the supporting documents in person to the Secretariat of the Council before 28 March 2012 for onward submission to the National Medical Examination Centre. During the relevant application period in 2012, the Secretariat of the Council received 1 application.

Practice of CMPs

Practice Conduct of Registered CMPs and Listed CMPs

The Practitioners Board has compiled “Code of Professional Conduct for Registered Chinese Medicine Practitioners in Hong Kong” and “Code of Conduct 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 discipline, professional responsibility, professional ethics, practising rules, medical practice and practice advertising. To enhance the CMPs’ understanding of the codes, 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.

Keeping of medical records: It is stipulated in the codes of conduct 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 set out detailed requirements on setting up, and maintaining personal medical records for patients, through the newsletters and letters. CMPs are required to record in the personal medical records patients’ names, gender, consultation dates, contact details, diagnosis, treatments applied, etc. This interpretation has been incorporated in the re-printed codes of conduct which had been released in 2011. It will be regarded as a professional misconduct of Chinese medicine practice 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 prescriptions: It is stipulated in the codes of conduct that a CMP should issue prescriptions to patients. The CMP should not charge unreasonable charges for issuing prescriptions, and

² Renamed as National Health and Family Planning Commission of the People’s Republic of China in 2013

prescriptions should not be issued only when at the patients' request. The Practitioners Board 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 conduct, 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 organization, the CMPs participating in that research can be exempted from observing those requirements, as stipulated in the codes of conduct.

Practice advertising of CMPs: The Court of Appeal handed down the Judgment in January 2008 regarding the inconsistency declared between certain aspects of practice promotion in the Professional Code and Conduct for Registered Medical Practitioners and the freedom of expression provided in the Basic Law and the Hong Kong Bill of Rights Ordinance. The Medicine Council of Hong Kong has amended the relevant parts on practice promotion in their Professional Code and Conduct for Registered Medical Practitioners. With reference to the Judgment and the newly amended Professional Code and Conduct for Registered Medical Practitioners, the Practitioners Board has passed the amended guidelines related to practice advertising in the codes of conduct, which are summarized as follows: (i) adding a new section, permitting CMPs for publication of service information in newspapers, magazines, journals and periodicals; (ii) adding a new section, permitting CMPs for displaying at the exterior of his office a service information notice bearing the fee schedules and the medical services provided by him; (iii) adding a new section, setting criteria for CMPs in attending health education activities; and (iv) revising section 6(2), Part III of the codes of conduct, that is, the paragraphs regarding relationship with health care and health products organizations. The revised versions of the provisions regarding practice promotion in the codes of conduct were set out in the Practitioners Board newsletter and uploaded to the website of the Chinese Medicine Council of

Hong Kong in December 2008, and also incorporated into re-printed Codes of Conduct which had been released in 2011.

After considering the right of the CMPs with academic titles and qualifications to exhibit true and accurate information, the public's right of information as well as their need for making appropriate choice of service from CMPs, the Practitioners Board issued consultation paper to all CMPs and Chinese medicine associations on 23 October 2009 regarding academic titles and qualifications that could be exhibited to the public by CMPs. The Practitioners Board and the Ethics Committee had worked out and agreed on the amended version of the codes of conduct. The revised codes of conduct (2011) were distributed to all registered and listed CMPs in December 2010, and had been uploaded to the website of the Chinese Medicine Council of Hong Kong (<http://www.cmchk.org.hk>).

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 alias in their practice, the Practitioners Board will handle these cases in accordance with the disciplinary procedures.

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 pCm from registration. To ensure the safety and quality of pCm and that such pCm 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 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.

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

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.

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.

Besides, amendments made to the Employees' Compensation Ordinance ("the ECO") and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance ("the PMCO") became effective on 1 September 2008. The objective of the amendments is to recognize the medical treatment, examination and certification given by registered CMPs for the purpose of employees' entitlement to benefits

under the two said ordinances. Under the amended provisions, registered CMPs are recognized for certifying sick leave arising from work injuries happening on or after 1 September 2008. A certain amount of medical expenses (including cost of medicines, similarly hereafter) incurred directly for treatment of the work injuries by registered CMPs shall be reimbursable to injured employees. Besides, registered CMPs may be appointed by employers to conduct medical examination for an injured employee who has received treatment from registered CMPs and to prepare medical report on the examination for the employer and employee. Apart from the above, persons who suffer from pneumoconiosis and/or mesothelioma shall be reimbursed the reasonable medical expenses for treatment given by registered CMPs on or after 1 September 2008 in connection with the pneumoconiosis and/or mesothelioma.

Disciplinary Matters of Chinese Medicine Practitioners

Disciplinary Procedures

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 2012, a total of 2,254 disciplinary cases were received by the Practitioners Board, including 225 cases received in 2012. For those cases received in 2012, 101 cases concerned practice advertising (45.0%), 50 cases concerned professional responsibility (22.2%), 31 cases concerned practising rules (13.8%), 28 cases concerned medical practice (12.4%), 12 cases concerned

inappropriate conduct (5.3%), 3 cases concerned professional ethics (1.3%). For details of the figures, please refer to Table 4(1), page 44.

Among the 2,254 disciplinary cases received during the period from 2002 to the end of 2012, 2,169 cases (96.2%) were handled and 85 cases (3.8%) were carried forward for handling during 2013. Of the completed cases, 896 cases (41.3%) were dismissed because of insufficient evidence or because of the death of the concerned CMPs; advisory letters were issued to 1,125 CMPs (51.9%), and 148 cases (6.8%) were subject to inquiry by the Practitioners Board. For details of the disciplinary figures, please refer to Table 4(2), page 44.

The Practitioners Board held 21 inquiries in 2012, involving 16 CMPs. After inquiries, the name of one registered CMP was removed from the Register; one registered CMP was removed from the Register for 6 months; six registered CMPs were removed from the Register for 7 days to 12 months, but suspended such removal for 3 to 24 months; and two registered CMPs were reprimanded in accordance with section 98(3) of the Chinese Medicine Ordinance. In addition, in accordance with section 91(2) of the Chinese Medicine Ordinance, the names of three listed CMPs were removed from the list of CMPs, and the name of one listed CMP was not removed though the decision of the Practitioners Board would be put on record for future reference. Two registered CMPs were found not guilty after the Practitioners Board inquiries. For details of the inquiry results, please refer to Table 4(3), page 46.

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 2012, the Practitioners Board has held 84 inquiries concerning 72 registered CMPs. None of them lodged an appeal to the Court of Appeal.

Inquiry Held by Reason of Health of CMP

In addition, the Practitioners Board has held inquiry against one Registered CMP by reason of health in accordance with section 56(1)(c) of the Chinese Medicine Ordinance. After inquiry, the Practitioners Board ordered to remove from the Register the name of the CMP concerned with immediate effect as the Practitioners Board opined that the CMP was unfit to practise Chinese medicine. After that, the CMP lodged an appeal against the decision of the Practitioners Board to the Council in accordance with section 97 of the Chinese Medicine Ordinance. Decision of the Practitioners Board was upheld after appeal hearing of the Council.

In 2012, the de-registered CMP applied to the Practitioners Board for the restoration of name to the Register in accordance with section 58 of the Chinese Medicine Ordinance. The de-registered CMP then followed the instruction of the Practitioners Board and submitted a medical report supporting his/her being mentally fit to practise Chinese medicine. In addition, the de-registered CMP was examined by the psychiatrist assigned by the Practitioners Board. The Practitioners Board will conduct the restoration inquiry in 2013.

Application for Registration as Registered Chinese Medicine Practitioner

Inquiry Procedures

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 2012 by the Practitioners Board, 152 applicants had been convicted of an offence punishable with imprisonment, two applicants were found guilty of professional misconduct, and four applicants attempted to obtain registration by fraud or misrepresentation. Among these 158 applications, 92 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; 10 applicants subsequently withdrew their applications; 38 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 two applications will be processed in 2013. For details of the figures, please refer to Table 4(4), page 49.

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 2012, 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).