

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

**Administration's Response to Issues raised in the Submissions from
Chinese Medicine Organisations**

Introduction

The Hong Kong Chinese Medicine Employees Association, the Hong Kong Registered Chinese Medicine Practitioners Association, the Hong Kong New Chinese Medicine Institute (香港新中醫學院), the Hong Kong Federation of China of Traditional Chinese Medicine and the School of Chinese Medicine of the Hong Kong Baptist University have separately submitted views on the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005 ("the Bill") to the Bills Committee between August to September this year. The Clerk to the Bills Committee has passed these submissions to the Administration for response. Our response is set out below.

Appeal for early approval of the Bill

2. We note that the Chinese medicine community generally calls for the early passage of the Bill by the Legislative Council. As the Bill has been introduced into the Legislative Council and a Bills Committee has been formed to scrutinise the Bill, the Administration will do its best to assist the Bills Committee and facilitate the smooth completion of the Committee's work.

On the proposal of not recognising registered Chinese medicine practitioners for performing certain medical functions in the Bill

3. A Chinese medicine organisation expressed disagreement with the

proposal that registered Chinese medicine practitioners (CMPs) would not be recognised for performing certain medical functions under relevant labour laws. Our view is that the extent of recognising registered CMPs under labour laws for the purpose of entitlement to employee benefits should be anchored on the principle that where registered CMPs are capable of performing the medical functions stipulated under labour legislation, they should be recognised for performing those functions. If the training of registered CMPs does not include a certain medical function or the scope of practice permitted under relevant medical legislation does not include registered CMPs, we do not propose to recognise registered CMPs for such function/duty under the Bill. This principle is based on practical considerations and there is no question of inequitable treatment in the legislative proposal. This principle is accepted by the Chinese Medicine Practitioners Board¹ and is fully reflected in the Bill.

4. For example, it is proposed that a registered CMP will be recognised for performing by and large the same functions as that of a medical practitioner (MP), which includes mainly the issuance of certificates regarding sick leave and pregnancy-related matters, under the Employment Ordinance. However, a registered CMP will not be recognised for certifying the date of confinement of a pregnant employee. The reason is that CMPs are not trained to attend a woman in childbirth.

5. Another example is that under the Pneumoconiosis (Compensation) Ordinance (PCO), a registered CMP will not be recognised for (a) giving advice to the Pneumoconiosis Compensation Fund Board² on the use of medical appliances (such as oxygen cylinders and dosage) by a person suffering from pneumoconiosis; and (b) measuring the forced vital capacity of a person suffering from pneumoconiosis, thereby assessing the loss of lung function and the degree of incapacity. The reason for this non-recognition is that these medical duties are outside the scope of training and practice of

¹ The Chinese Medicine Practitioners Board is established under the Chinese Medicine Ordinance for, among others, implementing the registration and disciplinary measures to ensure the professional standards of Chinese medicine practitioners.

² The Pneumoconiosis Compensation Fund Board is set up by statute to administer the PCO.

CMPs. For the same reason, registered CMPs will not be appointed to the Pneumoconiosis Medical Board³.

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³ The Pneumoconiosis Medical Board is set up under the PCO to determine if the person is suffering from pneumoconiosis, the degree of incapacity and whether a pneumoconiotic's death resulted from pneumoconiosis.