

**Legislative Council**

**Bills Committee on  
Chinese Medicine Bill**

**The Administration's response to the submissions  
received by the Bills Committee**

Introduction

This paper presents the Administration's response to the various major comments made in the 12 submissions received by the Bills Committees and forwarded to the Administration on 5, 22 and 23 March 1999.

2. It is noted that in some submissions only general remarks are made and there are no comments on any provisions in the Chinese Medicine Bill. We also note that strong support has been provided by associations of Chinese medicine practitioners which we greatly welcome.

The basis for regulation

3. A question has been raised in one submission about the basis for regulating Chinese medicine practitioners and Chinese herbal medicines. We are of the view that although Western medicine is currently the main stream of Hong Kong's health care system, Chinese medicine also plays a significant role in society. To raise standards and safeguard public health, it is necessary to regulate the practice, use, manufacture and trading of Chinese medicine. The proposed regulatory framework provides that only those with the necessary knowledge and skills in Chinese medicine should be allowed to practise Chinese medicine. It will enhance public health protection and safety, and greatly improve public confidence in the use of Chinese medicine.

Statutory Framework

4. In formulating the proposals on the future regulatory framework of Chinese medicine in Hong Kong, reference has been made to the relevant system in the Mainland, which comprises the elements of registration, training, examination, continuing education and discipline of Chinese medicine practitioners. In addition, public consultation on the proposed system has also been conducted.

5. Those registered, either by having passed the Licensing Examination or fulfilled the qualifying requirements under the transitional arrangements, will all be entitled to call themselves registered Chinese medicine practitioners. There is no need to create different types and titles for the practitioners.

#### Statutory body

6. In one submission, it is suggested that members of the proposed Chinese Medicine Practitioners Board should consist of persons who are formally trained and qualified in Hong Kong or with qualifications recognised by national authorities. A consultative committee should also be formed from which the government officials and lay persons serving as members in the Chinese Medicine Council may seek advice.

7. Our view is that as stipulated in the Bill, the Chinese Medicine Practitioners Board will mainly be composed of Chinese medicine practitioners so as to fulfill the principle of self-regulation. Other members of the Board will be government officials, academics and members of the public so as to ensure that public interest will not be neglected. Suitable and qualified persons will be appointed in their personal capacity. Given the spectrum of membership, there is no need to appoint a consultative committee.

#### Definition of “practising Chinese medicine”

8. In one submission, it is suggested that registered Chinese medicine practitioners should not be allowed to carry out other activities in their practice except those provided in the Bill.

9. A definition of “practising Chinese medicine” is prescribed in the Chinese Medicine Bill. It means the treatment of diseases, the prescription of Chinese herbal medicines or proprietary Chinese medicines and the regulation of the functional states of the human body on the basis of traditional Chinese medicine in general practice, acupuncture and bone-setting. The existing legislation of other health care professions should be adequate to prohibit unlawful practice in their respective professions.

### Need to prohibit Chinese medicine practitioners to practise Western medicine

10. In one submission, question is raised on whether registered Chinese medicine practitioners will be prohibited from practising Western medicine and from prescribing drugs which are not Chinese medicine to patients.

11. In view of the different theoretical basis between Chinese medicine and other health care professions, we have therefore proposed through this Bill to develop a separate control mechanism for Chinese medicine practice. The existing legislation of other health care professions provide their own regulatory control of the respective professions, and practice of the profession by unqualified personnel is prohibited under those legislation.

### Proposed transitional arrangements

12. Most of the submissions have included comments on the proposed transitional arrangements. The major comments and the Administration's responses are summarised below.

13. One suggestion is that the Chinese Medicine Practitioners Board should ask every applicant for registration to undergo either a registration assessment or the Licensing Examination. The number of years of practice is not a good criterion and it is difficult to verify.

14. Our view is that while registration will enhance standards, we should take into consideration that there are currently a large number of Chinese medicine practitioners practising in Hong Kong. As proposed in the Bill, depending on the applicants' level of experience, knowledge and skills, the existing practitioners may be exempted from the Licensing Examination and be allowed to register, or allowed to register subject to a registration assessment conducted by the Chinese Medicine Practitioners Board. These arrangements can minimise the disturbance to the existing profession. The Bill also provides for the requirement of continuing education in Chinese medicine. Chinese medicine practitioners have to fulfil the requirement of continuing education before they can renew their practising certificate. Under the Bill, they are also subject to discipline.

15. The proposed transitional arrangements have been subject to

wide consultation, both with the existing practitioners and the general public. There has been general acceptance that on balance they are reasonable arrangements. In the long run, all persons are required to take the Licensing Examination before they can be registered as a Chinese medicine practitioner.

16. We have proposed that only continuous practising experience in Hong Kong will be counted because it would be difficult to verify the practising experience claimed to have been obtained in places outside Hong Kong. The Administration has proposed that the required experience will be counted back from 3 January 2000 and only existing Chinese medicine practitioners should be allowed to go through the assessment under the transitional arrangements. Any attempt to extend the transitional period indefinitely would not be accepted.

17. It is also suggested in one submission that those existing practitioners who fail to pass the assessment within the prescribed period under the transitional arrangements should still be allowed to practise as “permitted Chinese medicine practitioner”. We do not agree that such persons should be allowed to continue to practise after the end of the transitional period and there is no need to create additional categories of practitioners.

#### The Licensing Examination

18. For the protection of public health, we have proposed that as a longer term arrangement, all applicants will be required to take the Licensing Examination conducted by the Chinese Medicine Practitioners Board. The applicants must first satisfy the Board that they have satisfactorily completed an undergraduate degree course of training in Chinese medicine practice or its equivalent. Only those who pass the examination will be allowed to register as a Chinese medicine practitioner.

19. In one submission, it is suggested that the eligibility for taking the Licensing Examination should be lowered from undergraduate degree courses to other courses. We do not agree to lower the standards regarding this long term arrangement.

20. In the same submission, it is suggested that there should not be any limit on the number of attempts of the Licensing Examination. We consider that this reserved power of the Chinese Medicine

Practitioners Board should be retained so that the Board may put an end to repeated failures which may be a disservice to the parties concerned.

21. In order to ensure the standards of the Licensing Examination and registration assessment, and also to enhance the integrity and credibility of the Chinese Medicine Practitioners Board in this respect, it is proposed that Chinese medicine experts from outside Hong Kong be invited to assist in the examination and assessment.

#### Use of Title

22. In one submission, it is suggested that the Bill should be amended to restrict that registered Chinese medicine practitioners should only be allowed to use the titles stated in Bill.

23. We consider that the suggested amendment is not necessary. The existing legislation of other health care professions have already imposed restrictions on the use of titles. For example, under the Medical Registration Ordinance (Cap. 161), an unqualified person is not allowed to practise Western medicine, or use any title which may suggest he is qualified to practise Western medicine.

#### Limited registration

24. In one submission, it is suggested that a Chinese medicine practitioner with limited registration should only be allowed to perform the permitted work within the institution which engages him. This suggested change imposes far greater restriction on a person performing teaching or clinical researches. We consider that as long as the person with limited registration is acting on behalf of the institution which employs him, the place of the activities should not be a matter of concern.

#### Practising certificates

25. One submission has questioned the purpose of the practising certificate. The requirement for obtaining a valid practising certificate is also prescribed in other legislation for regulating the practice of other health care professionals. The requirement serves many functions, and in this case, the key function is to allow the regulatory body to keep in contact with the registered professionals concerned and facilitate the

implementation of the continuing education requirement.

#### Fraudulent representations

26. It has already been stipulated in the Bill that any person who attempts to procure to be registered as a registered Chinese medicine practitioner by making or producing any false or fraudulent representations or declaration commits an offence and is liable on conviction upon indictment to imprisonment for 3 years.

#### Integration of Chinese and Western medicines

27. It is suggested in one submission that the Government should adopt a policy to develop and allow the integrated practice of Chinese and Western medicines. As we are only at an initial stage of providing statutory regulation of Chinese medicine, it is premature to promote the integrated application of Chinese and Western medicines in the treatment of patients.

#### Regulation of proprietary Chinese medicines

28. Questions are raised on the regulation of food stuff which are sold as snacks but containing some Chinese herbal medicines, and also on proprietary Chinese medicines sold in Chinese herbal tea shops. As regards the former, they should fall outside the regulation of the Bill if they are not claimed or known to be used for the diagnosis and treatment of diseases etc. As regards the latter, shops selling Chinese herbal teas are already regulated under existing legislation. It is intended that these shops and the products sold there should be exempted to avoid double-regulation. We shall recommend to the Chinese Medicine Council, after its establishment, to issue guidelines to set out such details for public reference.

Health and Welfare Bureau  
Government Secretariat  
March 1999