

立法會
Legislative Council

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Paper for the House Committee

Report of the Bills Committee on Chinese Medicine Bill

Purpose

This paper reports on the deliberations of the Bills Committee on the Chinese Medicine Bill.

Background

2. There is at present no specific regulatory mechanism to assess and ensure the standards of practice of Chinese medicine practitioners and to regulate the use, manufacture and trading of Chinese medicines. The existing Chinese medicine practitioners in Hong Kong are not required to register before practice. Similarly, Chinese medicines, including both Chinese herbal medicines and proprietary Chinese medicines, are not subject to any registration control.

3. In April 1995, a Preparatory Committee on Chinese Medicine (PCCM) was set up to advise the Government on how to promote, develop and regulate Chinese medicine in Hong Kong. Following a long period of study and consultation with the Chinese medicine professions and the trade, the PCCM drew up a list of recommendations in March 1997. The Government published a consultation document on the subject in November 1997 and conducted a consultation exercise until the end of the year. This was followed by briefing sessions for associations of Chinese medicine practitioners and organizations of traders and manufacturers of Chinese medicines. The LegCo Panel on Health Services was also briefed on the legislative proposals which have the full support of the PCCM.

The Bill

4. The Bill seeks to make provisions for the registration of practitioners of Chinese medicine, the licensing of traders in Chinese medicines, the registration of proprietary Chinese medicines and other related matters.

The Bills Committee

5. The House Committee agreed at its meeting on 5 February 1999 to form a Bills Committee to study the Bill. The Bills Committee first met on 4 March 1999 and Professor Hon NG Ching-fai was elected Chairman. The Bills Committee held a total of 21 meetings. The membership list of the Bills Committee is in **Appendix I**. The Bills Committee had received written submissions from 42 organizations/groups/individuals and met 21 deputations. The list is in **Appendix II**.

Deliberations of the Bills Committee

6. The main deliberations of the Bills Committee are set out in the following paragraphs.

Transitional arrangements for existing Chinese medicine practitioners

7. While many of the estimated existing 7 000 Chinese medicine practitioners have practised for many years, a majority of them do not possess any formal qualifications. Under the proposed transitional arrangements, depending on the applicants' level of experience, knowledge and skills, they may be exempted from the Licensing Examination and be allowed to register, or allowed to register subject to a registration assessment conducted by the Practitioners Board.

8. Members generally support the proposed arrangements which have been drawn up in consultation with the Chinese medicine sector. At the same time, members are also concerned about the criteria for exemption and the need to safeguard public health. To better understand the stance of the PCCM, the Bills Committee met the Chairman of the PCCM and some of its members at a recent meeting. Members note that the PCCM considers that registration should be based on the following criteria -

- (a) It should ensure professional standard in order to safeguard public safety;
- (b) It should have credibility and be accepted by the community and the public;
- (c) It should be accepted by the Chinese medicine profession.

Members also note that as Hong Kong did not have formal university training for Chinese medicine in the past, many Chinese medicine practitioners have accumulated experience through apprenticeship or application of knowledge handed down from ancestors. The PCCM therefore recommends that in assessing the qualification of existing practitioners, more weight should be given to the factor of experience. For this reason, it is the PCCM's consensus

that Chinese medical practitioners who satisfy the Practitioners Board that they have continuously been practising Chinese medicine in Hong Kong for 15 years or more immediately preceding 3 January 2000 will be exempted from the Licensing Examination and registration assessment. Details as to how to assess and verify the years of practice will be determined by the Chinese Medicine Council to be established by this Bill.

9. Members are concerned that the registration assessment should neither be too tight as to affect the livelihood of the existing Chinese medicine practitioners nor too loose as public health and safety are involved. For this reason, they have asked the Administration to provide an undertaking in the speech of the Secretary for Health and Welfare on resumption of the Second Reading debate to ensure a correct balance and transparency of the assessment criteria.

Composition of the Chinese Medicine Council
(clause 4)

10. Based on the principle of professional self-regulation, the Bill proposes to set up a statutory body, the Chinese Medicine Council (CMC), to be responsible for implementing various control measures in relation to Chinese medicine. It will have the responsibility to ensure adequate standard of practice and proper conduct in the profession of Chinese medicine practitioners and the proper use of Chinese medicines. The membership of the CMC and its boards and committees will consist mainly of persons from different Chinese medicine sectors, but will also include representatives from the Administration and other sectors of the community to ensure that public interest will be fully reflected.

11. Some members have pointed out that the Hospital Authority (HA), which is in charge of all public hospitals, should have a representative in the CMC to facilitate future development of Chinese medicine. The Administration considers that as there is at present no plan to implement Chinese medicine service in the public sector, it is too early to determine whether an HA representative should be appointed. It suggests instead that the HA representative could be appointed under the "lay persons" category, if necessary. As the Bills Committee does not have a consensus view on the matter, Dr Hon LEONG Che-hung will move an amendment to include an HA representative.

12. Members have noted that whereas the Chairman of the Medical Council of Hong Kong is elected by its members from amongst themselves, the Chairman of the CMC will be appointed by the Chief Executive. The Administration has advised that the arrangement will be reviewed after the first term in three years' time.

Limited registration

(clause 83)

13. To enable an educational or scientific research institution to engage a suitable Chinese medical practitioner to carry out predominantly clinical teaching and research work, clause 83 provides that the Practitioners Board may, if satisfied that the person concerned has the necessary qualification and experience, approve the person to be registered as a Chinese medicine practitioner with limited registration to perform mainly clinical teaching or research work. Members are concerned about the definition of an “educational or scientific institution”. A member has pointed out that in relation to a similar provision for temporary registration in the Medical Registration Ordinance, four institutions are specified. Members consider that a similar schedule of such institutions should be drawn up to prevent abuse of the system and to reduce the pressure on the CMC. However, the Administration does not wish to include such a schedule in view of the large number of such institutions and the need to allow the CMC flexibility in deciding on the matter.

14. On review of the matter, the Administration has agreed to move an amendment to clause 83 to specify that the Practitioners Board shall publish from time to time by notice in the Gazette a list of educational or scientific research institutions from which applications for limited registration will be considered. Such notice is not subsidiary legislation. Members support the amendment.

Use of acupuncture by other health care professionals

15. Members note that acupuncture is used by some other health care professionals including medical practitioners, dentists, chiropractors and physiotherapists. They consider that they should be allowed to continue to make use of the technique and should not be prohibited from such practice in future. After consulting the PCCM, the Administration has agreed to move an amendment to clause 108 to provide for exemption of the use of acupuncture, being of a type with distinguishable differences from the acupuncture based on traditional Chinese medicine, in the course of the practice of a medical practitioner registered under the Medical Registration Ordinance (Cap.161), a dentist registered under the Dentists Registration Ordinance (Cap. 156) and a physiotherapist registered under the Supplementary Medical Professions Ordinance (Cap. 359). Members support the amendment and note that the same exemption cannot be given to chiropractors at present as the registration system for the profession is not yet in place.

Treatment of diseases of the eye

(clause 165)

16. Dr Hon LEONG Che-hung has drawn members' and the Administration's attention to the medical profession's concern over the proposed consequential amendment to section 32 of the Medical Registration

Ordinance to allow Chinese medicine practitioners registered or listed under the future Chinese Medicine Ordinance to treat eye diseases. He has pointed out the serious consequence of delay in proper treatment of the eye which can lead to loss of sight. The Administration has informed members that there will be publicity and public education on the subject. The Administration has also undertaken to ensure there will be provisions on the matter in the future code of practice to be drawn up by the CMC, including the need for referral of patients to ophthalmologists where necessary.

Protection of intellectual property

17. In response to members' concern about intellectual property protection in respect of Chinese proprietary medicine formulas, the Administration has agreed to add a new clause 153A to prohibit the disclosure of confidential information obtained officially during the process of application for a licence, a certificate or renewal of the same under the future Ordinance.

Restriction on sale of Schedule 2 medicines

18. A retailer licence is required to sell or dispense any Chinese herbal medicines specified in Schedules 1 and 2. Members are concerned whether supermarkets or dried sea products shops can meet the licensing requirements to be prescribed. They suggest that more stringent requirements should only be imposed on shops selling both Schedules 1 and 2 medicines while there should be more flexibility for those selling Schedule 2 medicines only. The Administration has agreed to include an undertaking in the Secretary for Health and Welfare's speech on resumption of the Second Reading debate that the CMC will be asked to consider members' suggestion of classifying retailers into a number of categories with different levels of licensing requirements.

Regulation of Chinese herbal tea shops

19. Members note that Chinese herbal tea shops are at present subject to licensing control by the two provisional municipal councils while the Department of Health will examine any new formulas for preparing herbal teas and investigate into any complaints against such shops. The Administration considers that the current arrangement is already able to serve the purpose of ensuring the safety standard of these shops and therefore does not propose to include regulation of them in the Bill.

Regulation of dispensers of Chinese herbal medicines

20. Members are concerned that there is no provision to regulate dispensers of Chinese herbal medicines and have suggested that they should be covered in the proposed regulation of Chinese medicine. The Administration has informed members that there are more than 1 000 retail shops of Chinese herbal medicines with possibly up to 3 000 dispensers in total in Hong Kong. At present a dispenser needs about five years of on the job training to acquire the

necessary skills and knowledge while the dispensers in charge usually have more than 10 years of experience. Since dispensers are basically operatives in the dispensing of Chinese herbal medicine and as the professional nature of their work is not high, the Administration does not propose introducing a statutory scheme to regulate them. Instead, it proposes to strengthen the training of dispensers by encouraging educational institutions to organize courses for the existing dispensers. In addition, it has pointed out that the Bill includes a number of provisions such as the requirement for labelling of containers of Chinese medicines which will provide additional safeguards for public health.

21. Although members have agreed not to pursue the matter now, they have asked that the Secretary for Health and Welfare should provide an undertaking in her speech on resumption of the Second Reading debate that the CMC, after its establishment, should further deliberate the need to regulate dispensers of Chinese herbal medicines.

Committee Stage amendment (CSAs)

22. Apart from the CSAs discussed above, the Administration will also move a number of other amendments to the Bill. Most of these amendments are technical in nature. As part of the CSAs, the Administration will also introduce consequential amendments to seven existing ordinances. The CSAs to be moved by the Administration is in **Appendix III**. The CSA to be moved by Dr Hon LEONG Che-hung is in **Appendix IV**.

Recommendation

23. The Bills Committee recommends that the Second Reading debate on the Bill be resumed at the Council meeting on 14 July 1999.

Advice sought

24. A verbal report was made by Hon HO Sai-chu on behalf of the Chairman of the Bills Committee at the House Committee meeting on 2 July 1999 and the recommendation in paragraph 23 was supported by the House Committee.

Legislative Council Secretariat

7 July 1999

Bills Committee on Chinese Medicine Bill

Membership List

Prof Hon NG Ching-fai (Chairman)
Hon David CHU Yu-lin
Hon HO Sai-chu, SBS, JP
Hon Cyd HO Sau-lan
Hon Michael HO Mun-ka
Hon LEE Kai-ming, SBS, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Dr Hon Philip WONG Yu-hong
Hon YEUNG Yiu-chung
Hon Ambrose LAU Hon-chuen, JP
Dr Hon TANG Siu-tong, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon LAW Chi-kwong, JP

Total : 18 Members

Legislative Council Secretariat
2 July 1999

Bills Committee on Chinese Medicine Bill

List of individuals/organizations submitted views on the Bill

I. Name of Individual/Organization

- The HK Federation of China of Traditional Chinese Medicine
 Association of Practitioners of Chinese General Chamber Hong Kong Limited
 Estate Doctors Association Ltd.
 Dr David C ANDERSON
- * Mr TSUI Man-long, Mr YAU Chin-pong and Ms YICK Kit-ching (Chinese Medicine Practitioners)
 - * Mr FONG Seng (Chinese Medicine Practitioner)
 盧澤民先生 (港九中醫公會會員)
 鄭麗嫦小姐 (執業中醫師)
 - Mr TANG Ying-chiu (Chinese Medicine Practitioner)
 盧俊樂先生
 - * The Association of Licentiates of Medical Council of Hong Kong
 - * Mr YIP Lai-lam (Chinese Qigong Consultant)
 - * Hong Kong Chinese Herbalists Association Ltd
 - * International General Chinese Herbalists and Medicine Professionals Association Ltd
 Hong Kong International Association of Traditional Medicine
 - * One Country Two Systems Research Institute Limited
 - * Timeless Software Limited
 - * International Association (HK) for Chinese Manipulative Medicine
 Hong Kong Auriculare Acupuncture Association
 - * Past Students' Association of Traditional Chinese Medicine Practitioners, School of Professional
 and Continuing Education, University of Hong Kong
 Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd
 - * The Medical Council of Hong Kong
 - * The Hong Kong Medical Association
 - * The Hong Kong Medicine Dealers' Guild
 - * Hong Kong Chinese Patent Medicine Manufacturers' Association Ltd
 University Grants Committee
 The Hong Kong T.C.M. Orthopaedic & Traumatic Association Ltd
 Mr Clive LAU
 中醫界十團體負責人聯署
 - * Hong Kong Physiotherapy Association
 - * Hong Kong Physiotherapy Union
 - * Physiotherapy Section, Department of Rehabilitation Sciences, Hong Kong Polytechnic University
 - * Acupuncture Steering Group, (Physiotherapy), Hospital Authority

- The Hong Kong College of Obstetricians and Gynaecologists
- * Faculty of Medicine of the Chinese University of Hong Kong
- * Preparatory Committee on Chinese Medicine
- Hong Kong Dental Association Ltd
- Hong Kong Chiropractors' Association
- The Practising Pharmacists Association of Hong Kong
- The College of Ophthalmologists of Hong Kong
- The Hong Kong Association of Private Eye Surgeons
- Hong Kong Ophthalmological Society

Total: 42

- * These individuals/groups/organizations have appeared before the Bills Committee.

II. Guest invited to give a presentation on intellectual property protection in respect of Chinese medicines

Professor YEUNG Hin-wing
Institute for Advancement of Chinese Medicine of Hong Kong Baptist University

CHINESE MEDICINE BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Health and Welfare

Clause

Amendment Proposed

2

(a) In the definition of "proprietary Chinese medicine", by deleting paragraph (a) and substituting -

"(a) composed solely of the following as active ingredients -

(i) any Chinese herbal medicines; or

(ii) any materials of herbal, animal or mineral origin customarily used by the Chinese; or

(iii) any medicines and materials referred to in subparagraphs (i) and (ii) respectively;"

(b) By adding -

"domestic premises" (住用處所) means any premises which are constructed or intended to be used for habitation;"

4 (b) (v)

By adding "or scientific research" after

"educational".

7(a) (iii) By deleting "composition or scheme of" and substituting "voluntary".

11(2) By adding -
"(ca) directing the boards to implement such policies and activities as it thinks fit;".

13(e) By adding "or scientific research" after "educational".

14(b) (iv) By adding "or scientific research" after "educational".

18(a) (iii) By deleting "composition or scheme of" and substituting "voluntary".

26(c) By adding "or scientific research" after "educational".

27(c) By adding "or scientific research" after "educational".

28 By deleting paragraph (d) and substituting -
"(d) 2 persons who shall be lay members of the Practitioners Board.".

- 29(c) (iv) By adding "or scientific research" after "educational".
- 31(b) By deleting subparagraph (v) and substituting -
"(v) 2 persons who shall be lay members of the Medicines Board."
- 35(a) (iii) By deleting "composition or scheme of" and substituting "voluntary".
- 45 By adding -
"(3) Notwithstanding subsection (1), the Council shall meet at least once every 6 months and as often as may be necessary to transact its business."
- 46 (a) By renumbering it as clause 46(1).
(b) By adding -
"(2) Notwithstanding subsection (1), where there is any defect in the appointment of any member of the Council, a board or committee, it shall constitute the special circumstances referred to in sections 97 and 103 for the purposes of determining the time for appeal."

- 48 By deleting "The" and substituting "Subject to any standing orders made under section 49(a), the".
- 49(a) By adding ", including, but not limited to, the transaction of business by circulation of papers" after "business".
- 52(1) In the Chinese text, by adding "有關該等人士的" after "適當的".
- 53(1) By deleting everything after "the names" and substituting ", addresses and qualifications of all persons whose names appear in the Register in such manner as the Registrar may determine.".
- 56 (a) In subclause (1) -
- (i) in paragraph (e), by deleting everything after "98(3)(a)" and substituting "or (b).";
 - (ii) by deleting paragraph (f).
- (b) By deleting subclause (2) and substituting -
- "(2) The Practitioners Board may also order the removal from the Register the name of any person who fails to acknowledge within 4 months after the date of dispatch the receipt of a registered letter addressed to him at his address as recorded in the

Register, or the last address supplied by him to the Registrar.

(3) For the purpose of subsection (1)(c), the Practitioners Board may make recommendations to the Council to set up a committee under section 39 to assess the fitness or otherwise of any registered Chinese medicine practitioner before an order is made pursuant to that subsection."

- 57
- (a) In subclause (1), by deleting ", (d) or (f)" and substituting "or (d) or (2)".
 - (b) In subclause (2), by deleting ", (d) or (f)" and substituting "or (d) or (2)".

- 60
- (a) By renumbering it as clause 60(1).
 - (b) By adding -
 - "(2) Without prejudice to the generality of subsection (1), the Practitioners Board may appoint examiners for the purposes of the Licensing Examination."

- 62
- By adding -
 - "(4) The Practitioners Board shall conduct and complete any such review as soon as practicable."

63 By deleting "may" and substituting "shall".

69 By adding -

"(1A) Upon approving an application for registration by a person who has been exempted from the Licensing Examination under section 93, the Practitioners Board may impose such conditions and restrictions on the practice of that person as it considers necessary.

(1B) Where the Practitioners Board has imposed conditions or restrictions under subsection (1A), it may amend, vary or revoke any of such conditions or restrictions."

74 By adding -

"(3) Where a registered Chinese medicine practitioner desires to use the addition or description referred to in subsection (2), he shall adopt one of the following formats -

- (a) in the English language as
"Registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong (General Practice)" or
"Registered Chinese medicine practitioner of the Chinese

Medicine Council of Hong Kong (Acupuncture)" or "Registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong (Bone-setting)"; or in the Chinese language as "香港中醫藥管理委員會註冊中醫(全科)" or "香港中醫藥管理委員會註冊中醫(針灸)" or "香港中醫藥管理委員會註冊中醫(骨傷)", as the case may be; or

- (b) the abbreviation in the English language as "Registered Chinese medicine practitioner (General Practice)" or "Registered Chinese medicine practitioner (Acupuncture)" or "Registered Chinese medicine practitioner (Bone-setting)"; or in the Chinese language as "註冊中醫(全科)" or "註冊中醫(針灸)" or "註冊中醫(骨傷)" or "註冊中醫師(全科)" or "註冊中醫師(針灸)" or "註冊中醫師(骨傷)", as the case may be."

79

- (a) In paragraph (a), by adding "forthwith" after "Registrar".
- (b) In paragraph (b), by adding "forthwith" after

"Registrar".

- 83 (a) By renumbering it as clause 83(1).
(b) In the Chinese text, in subclause (1), by deleting "科學研究" and substituting "科研".

(c) By adding -

"(2) For the purpose of subsection (1), the Practitioners Board shall publish from time to time by notice in the Gazette a list of educational or scientific research institutions from which applications for limited registration will be considered.

(3) For the avoidance of doubt, the notice published under subsection (2) is not subsidiary legislation."

84(1) In the Chinese text, by adding "向中醫組" after "格式".

85(4)(a) By adding "specified under section 83(2)" after "institution".

94 By adding -

"(3) The Practitioners Board shall publish by notice in the Gazette such information pertaining to the registration assessment as it thinks fit.

(4) For the avoidance of doubt, the notice published under subsection (3) is not subsidiary legislation."

97(1)

- (a) By adding "56(1)(c)," after "sections".
- (b) By adding "or within such further time as the Council may in special circumstances allow," after "notification of the decision,".

103

- (a) In subclause (1) -
 - (i) by adding "(1)(a), (d) or (e) or (2)" after "section 56";
 - (ii) by adding "or within such further time as the Court of Appeal may in special circumstances allow," after "service of the order,".
- (b) In subclause (5), by deleting "1 month of the service of the order" and substituting "the time referred to in subsection (1)".

108

- By deleting subclause (3) and substituting -
- "(3) Subsection (2) shall not apply to -
 - (a) the dispensing of Chinese herbal medicines by a dispenser or person nominated under section 114(2)(b)(i) or (ii) at the premises in respect of which a retailer licence is in force;

(b) the use of acupuncture, being of a type with distinguishable differences from acupuncture based on traditional Chinese medicine, in the course of the practice of -

- (i) a registered medical practitioner registered under the Medical Registration Ordinance (Cap. 161);
- (ii) a registered dentist registered under the Dentists Registration Ordinance (Cap. 156);
- (iii) a physiotherapist registered under the Supplementary Medical Professions Ordinance (Cap. 359).".

114(2)(b)(ii) By deleting "a deputy to" and substituting "not more than 2 deputies, one of whom shall".

128(1)(ii) In the Chinese text, by adding "進口商或" before "該中成藥".

132(1)(b)(ii) By deleting "a deputy to" and substituting "not more

than 2 deputies, one of whom shall".

145(2) By deleting "deputy" and substituting "deputies".

150 (a) In subclause (1), by deleting "Where an offence against this Ordinance is committed by a servant of a holder of a licence issued under this Ordinance" and substituting "Where a servant of a holder of a licence issued under this Ordinance commits an offence for contravening section 109, 110, 111, 119(1), 131, 134, 142, 143 or 144".

(b) In subclause (2), by deleting "under section 154(1)".

New By adding -

"153A. Disclosure of confidential information obtained officially

(1) No public officer, or member of the Council, boards or committees shall, except in the circumstances set out in subsection (2), disclose or give to another person any information that concerns a trade, business or manufactory secret which has come to his knowledge or into his possession in the course of the discharge of his functions under this Ordinance.

(2) A public officer, or member of the Council, boards or committees does not contravene subsection (1) if he discloses or gives the

information to another person -

- (a) to discharge his functions under this Ordinance;
- (b) under an order of a court under subsection (3); or
- (c) with the consent in writing of all persons who appear to him, after reasonable inquiry, to be interested in the confidentiality of the information.

(3) Where in any proceedings a court considers that the justice of the case so requires, the court may order the disclosure of information referred to in subsection (1).".

154(1) By deleting "or 153(3)" and substituting ", 153(3) or 153A".

160(5) (a) In paragraph (b), by deleting "to be followed" and substituting "and all such powers necessary for the purposes of and".

(b) In paragraph (c), by deleting "to be followed" and substituting "and all such powers necessary for the purposes of and".

(c) In paragraph (d), by deleting "to be followed" and substituting "and all such powers necessary for the purposes of and".

- (d) By deleting paragraph (f) and substituting -
- "(f) the format, procedures, requirements, powers and any matter ancillary or related to -
- (i) the registration of Chinese medicine practitioners;
 - (ii) the Licensing Examination;
 - (iii) the issue or renewal of practising certificates; and
 - (iv) the transitional arrangements for Chinese medicine practitioners, under this Ordinance."

New

By adding -

**"Consequential Amendments
Public Health and Municipal
Services Ordinance**

161. Interpretation

Section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132) is amended by repealing the definition of "drug" and substituting -

"drug" (藥物) includes any medicine, Chinese herbal medicine or proprietary Chinese medicine for internal or external use

by man;".

Pharmacy and Poisons Ordinance

162. Section substituted

Section 37 of the Pharmacy and Poisons Ordinance (Cap. 138) is repealed and the following substituted -

"37. Ordinance not to apply to Chinese herbal medicines and proprietary Chinese medicines, etc.

(1) Subject to subsection (2), nothing in this Ordinance shall apply to the sale, manufacturing, dispensing or compounding of Chinese herbal medicines or proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance (of 1999) or other materials of herbal, animal or mineral origin customarily used by the Chinese for medicinal purpose.

(2) Notwithstanding subsection (1), this Ordinance shall apply to pharmaceutical products containing any such Chinese herbal medicines or proprietary Chinese medicines or other materials of herbal, animal or mineral origin customarily used by the Chinese for medicinal purpose as active ingredients."

Medical Registration Ordinance

**163. Unlawful use of title etc. and
practice without registration**

Section 28 of the Medical Registration
Ordinance (Cap. 161) is amended -

(a) in subsection (3) -

(i) in paragraph (f), by
repealing "and";

(ii) in paragraph (g), by
repealing the full stop
and substituting "
and";

(iii) by adding -

"(h) by way of
practising
Chinese
medicine by a
Chinese
medicine
practitioner
registered
or listed
under the
Chinese
Medicine
Ordinance

(of
1999) or a
person who
continues to
practise
Chinese
medicine
provisional-
ly by virtue
of section
90(7) of that
Ordinance.";

(b) by adding -

"(6) Without prejudice
to any Ordinance relating to
the prosecution of criminal
offences or to the powers of
the Secretary for Justice in
relation to the prosecution
of criminal offences,
prosecutions for an offence
in connection with the
practice of Chinese medicine
shall only be brought under
the Chinese Medicine
Ordinance (of 1999).".

164. Section substituted

Section 31 is repealed and the following substituted -

"31. Chinese medicine

(1) Nothing in this Ordinance shall be deemed to affect the right of any Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance (of 1999) or any person who continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance, not being a person taking or using any name, title, addition or description calculated to induce anyone to believe that he is qualified to practise medicine or surgery under this Ordinance, to practise Chinese medicine in accordance with the provisions of that Ordinance.

(2) For the purposes of this section

- (a) the taking or using in Chinese by any person of the name, title, addition or description of "西醫", "醫生", "醫師", "醫士", "醫學士", "醫學博士", "男醫", "女醫", "醫科", "醫家",

"醫寓", "醫院", "醫務院", "醫所", "醫務所", "醫療所", "診療所", "療病院", and the taking or using of any words or characters implying specialization if preceded by or used in combination with words or characters other than "中" or "中醫" shall be deemed to be the taking or using of a name, title, addition or description calculated to induce anyone to believe that he is qualified to practise medicine or surgery under this Ordinance and that he is registered under this Ordinance;

- (b) the taking or using in Chinese by a Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance (of 1999) or a person who continues to practise Chinese medicine

provisionally by virtue of section 90(7) of that Ordinance of the name, title, addition or description of "醫生", "醫師", "醫士", "醫學士", "醫學博士", "男醫", "女醫", "醫科", "醫家", "醫寓", "醫院", "醫務院", "醫所", "醫務所", "醫療所", "診療所", "療病院" or any words or characters implying specialization, when preceded by or used in combination with the character "中" or characters "中醫", shall not be deemed to be the taking or using of a name, title, addition or description calculated to induce anyone to believe that he is qualified to practise medicine or surgery under this Ordinance or that he is registered under this Ordinance."

165. Treatment of diseases of the eye

Section 32 is amended -

(a) in subsection (1) -

(i) by adding "and subject
to subsection (1A)"
after "section 31";

(ii) by repealing
everything after
"thereof" and
substituting a full
stop;

(b) by adding -

"(1A) Nothing in this
section shall be taken to
prohibit -

(a) a person who
is not a
registered
medical
practitioner
from holding
himself out
as being
qualified,
competent or
willing to
test

refraction,
visual
acuity and
colour
vision, or to
make or
provide
spectacles
or other
optical
appliances
for the
remedy of
defects of
vision;

(b) a Chinese
medicine
practitioner
registered
or listed
under the
Chinese
Medicine
Ordinance
(of
1999) or a
person who

continues to
practise
Chinese
medicine
provisional-
ly by virtue
of section
90(7) of that
Ordinance
from
undertaking
the
treatment of
diseases of
the human eye
or the
prescription
of remedies
for such
treatment,
or the giving
of advice in
connection
with such
treatment in
accordance
with the

provisions
of that
Ordinance.".

Undesirable Medical Advertisements Ordinance

166. Interpretation

Section 2(1) of the Undesirable Medical Advertisements Ordinance (Cap. 231) is amended, in the definition of "medicine", by adding "a Chinese herbal medicine, a proprietary Chinese medicine," after "patent medicine,".

167. Certain defences; provision as to Chinese medicine practitioners

Section 5 is amended -

- (a) by repealing subsection (1)(d)
and substituting -

"(d) Chinese medicine
practitioners
registered or listed
under the Chinese
Medicine Ordinance
(of 1999) or
persons who continue to
practise Chinese
medicine provisionally
by virtue of section

90(7) of that

Ordinance.";

- (b) in subsection (2), by repealing "native herbalist" and substituting "Chinese medicine practitioner".

Customs and Excise Service Ordinance

168. Ordinances referred to in sections 17 and 17A

Schedule 2 to the Customs and Excise Service Ordinance (Cap. 342) is amended by adding "Chinese Medicine Ordinance (of 1999)" at the end.

Medical Clinics Ordinance

169. Interpretation

Section 2 of the Medical Clinics Ordinance (Cap. 343) is amended -

- (a) in the definition of "clinic", by repealing paragraph (f) and substituting -

"(f) premises used exclusively by a Chinese medicine practitioner registered or listed

under the Chinese
Medicine Ordinance
(of 1999) or a
person who continues to
practise Chinese
medicine provisionally
by virtue of section
90(7) of that Ordinance
in the course of his
practice;";

(b) in the definition of "medical
treatment", by repealing
paragraphs (c) and (d) and
substituting -

"(c) the dispensation of
Chinese herbal
medicines under the
Chinese Medicine
Ordinance (of
1999);

(d) the treatment given by
a Chinese medicine
practitioner
registered or listed
under the Chinese
Medicine Ordinance
(of 1999) or

a person who continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance;".

**Import and Export (General)
Regulations**

170. First Schedule amended

Part I of the First Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg.) is amended by adding -

- "2A. Chinese herbal medicines specified in Schedule 1 of the Chinese Medicine Ordinance (of 1999).

- 2B. 5 Chinese herbal medicines specified in Schedule 2 of the Chinese Medicine Ordinance (of 1999), namely, Flos Campsis (凌霄花), Processed Radix Aconiti (製川烏), Processed Radix Aconiti Kusnezoffii (製草烏), Radix Clematidis (威靈仙) and Radix Gentianae (龍膽).

- 2C. Proprietary Chinese medicines as

defined in section 2 of the Chinese
Medicine Ordinance (of 1999).".

171. Second Schedule amended

Part I of the Second Schedule is amended by
adding -

"3A. Chinese herbal All countries.
medicines specified
in Schedule 1 of the
Chinese Medicine
Ordinance (of
1999).

3B. The following 5 All countries.
Chinese herbal
medicines specified
in Schedule 2 of the
Chinese Medicine
Ordinance (of
1999):

Flos Campsis (凌霄花)

Processed Radix Aconiti
(製川烏)

Processed Radix Aconiti
Kusnezoffii (製草烏)

Radix Clematidis (威靈仙)

Radix Gentianae (龍膽).

3C. Proprietary Chinese All countries.
medicines as defined
in section 2 of the
Chinese Medicine
Ordinance (of
1999).".

172. Third Schedule amended

The Third Schedule is amended by adding -

- "1A. Chinese herbal medicines specified in
Schedule 1 of the Chinese Medicine
Ordinance (of 1999).
- 1B. 5 Chinese herbal medicines specified in
Schedule 2 of the Chinese Medicine
Ordinance (of 1999), namely,
Flos Campsis (凌霄花), Processed Radix
Aconiti (製川烏), Processed Radix
Aconiti Kusnezoffii (製草烏), Radix
Clematidis (威靈仙) and Radix Gentianae
(龍膽).
- 1C. Proprietary Chinese medicines as
defined in section 2 of the Chinese
Medicine Ordinance (of 1999).".

Pharmacy and Poisons Regulations

173. Registration of pharmaceutical products and substances

Regulation 36 of the Pharmacy and Poisons Regulations (Cap. 138 sub. leg.) is amended by adding -

"(2A) In considering an application for registration of a pharmaceutical product which contains as active ingredients any Chinese herbal medicines or proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance (of 1999) or other materials of herbal, animal or mineral origin customarily used by the Chinese for medicinal purpose, the Board shall seek advice from the Chinese Medicines Board established under the Chinese Medicine Ordinance (of 1999).".

- Schedule 2
- (a) In "Bombyx Batryticatus", by deleting "Benvaria" and substituting "Beauveria".
 - (b) In "Caulis Ampelopsis Brevipedunculae", by deleting "Ampelopsis" and substituting "Ampelopsis".
 - (c) In "Caulis Bambusae in Taeniam", by deleting "heenonis" and substituting "henonis".
 - (d) In "Caulis Mahoniae", by deleting "bealei" and

- substituting "healei".
- (e) In "Cera Chinensis", by deleting "Frasxinus chinencis" and substituting "Fraxinus chinensis".
 - (f) In "Concha Arcae", by deleting "Lischle" and substituting "Lischke".
 - (g) In "Concha Meretricis sue Cyclinae", by deleting "sue" and substituting "seu".
 - (h) In "Cornu Cervi Degelatinatum", by deleting "Temminch" and substituting "Temminck".
 - (i) In "Cornu Cervi Pantotrichum", by deleting "Temminch" and substituting "Temminck".
 - (j) In "Cortex Fraxini" -
 - (i) by deleting "Frazinus" and substituting "Fraxinus";
 - (ii) by deleting "Rixb." and substituting "Roxb.".
 - (k) In "Flos Chimonanthi Praecocis", by deleting "praeco" and substituting "praecox".
 - (l) In "Folium Ilicis Cornutae", by adding "ex Paxt." after "Lindl.".
 - (m) In "Fructus Psoraleae", by deleting "Psoralca corylifolin" and substituting "Psoralea corylifolia".
 - (n) In "Fructus Schisandrae", by deleting "Barll" and substituting "Baill".
 - (o) In "Fructus Tsaoko", by deleting "tsaoko" and

- substituting "tsao-ko".
- (p) In "Herba Commlinae" -
- (i) by deleting "Commlinae" and substituting "Commelinae";
 - (ii) by deleting "ommunis" and substituting "communis".
- (q) In "Herba Euphorbiae Humifusae" -
- (i) by deleting "numifusa" and substituting "humifusa";
 - (ii) by adding "L." after "maculata".
- (r) In "Herba Inulae", by deleting "Turcz.," and substituting "Turcz. or".
- (s) In "Herba Veronicae", by deleting "senus" and substituting "sensu".
- (t) In "Herba Violaе", by deleting "Herb of".
- (u) In "Lasioiphaera seu Calvatia", by deleting "Lasioiphaera" and substituting "Lasiosphaera".
- (v) In "Limonitum", by deleting "余" and substituting "餘".
- (w) In "Medulla Stachyuri", by adding "or Medulla Helwingiae" after "Stachyuri".
- (x) In "Nidus Vespae", by deleting "Saussur" and substituting "Saussure".
- (y) In "Processed Radix Euphorbiae fischerianae, Radix Euphorbiae ebracteolatae, or Radix Stellerae", by deleting "chamaejasone" and substituting "chamaejasme".

- (z) In "Pseudobulbus Cremastrae seu Pleiones", by deleting "Cremastra" and substituting "Cremastra".
- (aa) In "Radix Clematidis", by deleting "Pall.," and substituting "Pall. or".
- (ab) In "Radix Isatidis", by deleting "籃" and substituting "藍".
- (ac) In "Radix Trichosanthis", by deleting "japonica Regel" and substituting "rosthornii Herms".
- (ad) In "Resina Liquidamberis" -
 - (i) by deleting "Liquidamberis" and substituting "Liquidambaris";
 - (ii) by adding "Resin of" before "Liquidambar".
- (ae) In "Rhizoma Cynanchi Stauntonii", by deleting "Hang." and substituting "Hand.".
- (af) In "Rhizoma Dioscoreae Tokoro", by adding "Rhizome of" before "Dioscorea".
- (ag) In "Rhizoma et Radix Baphicacanthis Cusae", by deleting "Cusae" and substituting "Cusiae".
- (ah) In "Semen Lepidii or Semen Desurainiae", by deleting "Desurainiae" and substituting "Descurainiae".
- (ai) In "Semen Sterculiae Lychnophorae", by deleting "Lychnophora" and substituting "lychnophora".
- (aj) In "一枝黃花", by adding "或其任何部分" after "全草".

- (ak) In "水蛭", by deleting "蜚" and substituting "蟻".
- (al) In "肉豆蔻", by adding "肉" before "豆蔻" where it secondly appears.
- (am) In "安息香", by adding "白" before "花樹".
- (an) In "青礞石", by deleting "炭" and substituting "岩".
- (ao) In "厚樸", by deleting "朴" and substituting "樸".
- (ap) In "豨簽草", by deleting "簽" and substituting "簽".
- (aq) In "餘甘子", by deleting "余" and substituting "餘".
- (ar) In "鵝不食草", by adding "菊科植物" before "鵝不食草" where it secondly appears.

Schedule 3, Part I By deleting paragraph (g) and substituting -
 "(g) to inquire into the conduct of applicants for registration as Chinese medicine practitioners and to conduct inquiry proceedings in respect of the conduct and discipline of registered Chinese medicine practitioners and where appropriate, to make such orders as provided for under this Ordinance;".

Schedule 5 (a) In column 3, by deleting "any committee under

Practitioners Board" wherever it appears and substituting "Examination Committee or Registration Committee".

(b) By adding at the end of column 2 -

"(m) Certificate for manufacturer (section 133)".

(c) By adding at the end of column 3 -

"Chinese Medicines Traders Committee".

CHINESE MEDICINE BILL

COMMITTEE STAGE

Amendments to be moved by Dr. the Honourable LEONG Che-hung, J.P.

<u>Clause</u>	<u>Amendment Proposed</u>
4(b)	(a) By deleting "18" and substituting "19".
	(b) By adding - “(iva) 1 person nominated by the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap. 113);”.