

Legislative Council Panel on Health Services

11 January 1999

Chiropractors Registration Ordinance (Cap. 420)

Purpose

This paper provides supplementary information on the outstanding issues regarding the preparation of subsidiary legislation under the Chiropractors Registration Ordinance (CRO) (Cap. 428). The few outstanding issues to be resolved are on the Chiropractors (Registration and Disciplinary Procedure) Rules, and are as follows -

Application for registration

2. Section 9(2) of the CRO^(Note) empowers the Chiropractors Council (the Council) to refuse to register a person as a registered chiropractor who -

- (a) has been convicted in Hong Kong or elsewhere of any offence which may bring the profession of chiropractic into disrepute; or
- (b) has committed misconduct or neglect in a professional respect.

3. In determining whether this power should be exercised to refuse an application, the Council considers that the standard for handling disciplinary complaints against registered chiropractors should be adopted. Therefore, the Council suggests that its Preliminary Investigation Committee (PIC) should be consulted in respect of such cases.

4. However, section 13 of the CRO establishes a Registration Committee to assist the Council to consider the applications for registration. There are different legal opinions on whether and to what extent the PIC can be involved in consideration of applications for registration. Subject to further legal advice, the Council may revise its application handling procedure as appropriate.

^(Note) Extracts of the relevant sections of the CRO are attached at Annex

Hearing of application for registration

5. Section 9(1)(c) and (d) of the CRO requires that an applicant for registration should be competent to practise in chiropractic and be a fit and proper person to be registered. There is a suggestion that a full hearing should be held to determine whether the application should be accepted if the Council is doubtful of whether the applicant fulfils these requirements. This kind of hearing is not included in the Council's original legislative proposal. We are still studying the suggestion in detail and will make a recommendation to the Council.

Rehearing of an inquiry

6. Section 17(7) of the CRO empowers the Council to make rules for the rehearing of an inquiry by an inquiry committee. The Council has not proposed any rules for this purpose. There is a suggestion that such rules should be included in the current exercise. We are studying the suggestion in detail and will make a recommendation to the Council.

Extension of time for renewal of practising certificate

7. Section 12(8) of the CRO provides that if a registered chiropractor fails to renew his practising certificate within the specified period of time, the Council may extend the time for renewal subject to the chiropractor's payment of a prescribed fee for the extension. There is a suggestion that the procedures for application for such extension should be included in the current exercise. We are studying the suggestion in detail and will make a recommendation to the Council.

8. Form of register

(1) The Secretary shall, in accordance with the directions of the Council, keep a register containing the names, addresses and any other details that the Council may direct of all persons who have been registered and the qualification on which their registration is based.

(2) The register shall be available to any person for inspection free of charge at an office nominated from time to time by the Council at such reasonable times as the Council may direct.

(3) A person whose name is entered in the register shall within 28 days notify the Secretary of any change in the details mentioned in subsection (1).

9. Qualifications for registration

(1) The Council shall not register a person as a registered chiropractor unless—

(a) he has passed such examination in chiropractic and other subjects and has received such training and experience as the Council may accept, either generally or in a particular case; and

(b) he is not the subject of an inquiry conducted by an inquiry committee or of a disciplinary order under Part IV which precludes him from being registered under this Ordinance; and

(c) he satisfies the Council by declaration in writing that he is competent to practise as a chiropractor; and

(d) he is a fit and proper person to be registered.

(2) Without affecting the generality of subsection (1)(d), the Council may refuse to register a person as a registered chiropractor who—

(a) has been convicted in Hong Kong or elsewhere of any offence which may bring the profession of chiropractic into disrepute; or

(b) has committed misconduct or neglect in a professional respect.

(3) Where the Council is satisfied by an applicant that he is competent to practise chiropractic and the Council is later satisfied that the person is not competent to practise chiropractic, the Council may refer the matter to an inquiry committee which shall deal with it as if it were a complaint under section 17(1).

10. Application for registration

(1) A person shall apply for registration as a registered chiropractor in such form and manner as the Council may determine.

(2) An applicant shall pay at the time of lodging his application the prescribed fee for an application for registration.

(3) The Council may require an applicant to undertake a written examination under section 9(1)(a) of his knowledge of chiropractic.

11. Acceptance or refusal of registration

(1) The Council may accept or reject an application for registration or renewal of registration under this Ordinance.

(2) Where the Council accepts or rejects an application for registration or renewal of registration, the Secretary shall act in accordance with rules made by the Council.

(3) Where the Council rejects an application for registration or renewal of registration, it shall give to the applicant an adequate statement of the reasons for the rejection.

12. Practising certificates

(1) A registered chiropractor shall not practise chiropractic in Hong Kong unless he is the holder of a practising certificate which is then in force.

(2) Subject to the payment of the prescribed fee the Secretary shall, on application made to him in that behalf issue to the registered chiropractor a certificate, in a form determined by the Council, to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practise chiropractic in Hong Kong.

(3) Where a practising certificate is issued pursuant to an application "made during the course of a year in respect of that year, the certificate shall, subject to section 15(5), be in force from the time of its issue until the end of that year.

(4) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of the following year, the certificate shall, subject to section 15(5), be in force for a period of 12 months commencing on 1 January in that following year.

(5) A registered chiropractor shall, not earlier than 3 months prior to the expiry of the current practising certificate, apply to the Secretary for renewal of his practising certificate in a form determined by the Council.

(6) A registered chiropractor shall pay the prescribed fee for an application for renewal of his practising certificate at the time of applying for such renewal.

(7) If a registered chiropractor does not apply for renewal of his practising certificate before the expiry of his current practising certificate the Secretary shall, on the expiry of the current practising certificate, note in the register that the certificate has not been renewed.

(8) Where a registered chiropractor fails to renew his practising certificate within time, the Council may extend the time for renewal if the registered chiropractor pays to the Council the prescribed fee for the extension of time.

(9) Any grant of extension of time by the Council under subsection (8) shall not affect any offence under any other Ordinance that the person who has failed to renew on time may commit as a result of the failure.

13. Registration committee

(1) The Council may appoint a registration committee of not less than 3 persons to consider the qualifications of applicants.

(2) The Secretary may nominate a person to be a member of the registration committee, and, if a person is so nominated, the Council shall appoint him to the committee.

(3) The registration committee shall make recommendations to the Council on the acceptability of the qualifications which require the Council's acceptance under section 9(1)(a).

(4) The Council shall not be bound by a recommendation of the registration committee under subsection (3).

(5) The Council may delegate any of its functions relating to registration and the renewal of registration to the registration committee.

14. Certificate of registration

The Secretary may, on payment by a registered chiropractor of the prescribed fee, issue to the registered chiropractor a certificate of registration in a form determined by the Council.

15. Removal of name from the register

(1) The Secretary may remove the name of a registered chiropractor from the register if he is satisfied that the registered chiropractor has—

- (a) died;
- (b) applied to discontinue his registration;
- (c) for 6 months following the expiry of his current practising certificate under section 12(3) or (4), failed to apply for a practising certificate to be issued to him under section 12(2);
- (d) ceased to hold a qualification by virtue of which he was registered; or
- (e) failed to notify a change of details required under section 8(3).

(2) Subject to section 20(2), the Secretary shall remove a name from the register if he receives an order of the Court of Appeal or an inquiry committee directing that the name be removed from the register.

(3) Where the Secretary intends to remove the name of a registered chiropractor from the register under subsection (1)(c), (d) or (e), he shall send notice of his intention by prepaid registered post to the registered address of the registered chiropractor and shall not remove his name until the expiry of a period of 28 days after the date of posting the notice.

(4) If the Secretary gives notice to a registered chiropractor that—

(f) has been convicted in Hong Kong or elsewhere of an offence which may bring the profession of chiropractic into disrepute.

(2) If a person who has been guilty of misconduct or neglect in a professional respect or has been convicted of an offence under this Ordinance or has been convicted in Hong Kong or elsewhere of an offence which may bring the profession of chiropractic into disrepute, informs the Council of such misconduct, neglect or conviction when he applies for registration or renewal of registration and the Council subsequently accepts the person for registration or renewal of registration, that person shall not, for the purposes of registration or renewal of registration, be considered as having committed a disciplinary offence in respect of the disclosed misconduct, neglect or conviction.

(3) Where the Secretary receives a complaint alleging a disciplinary offence, the Secretary shall submit the complaint to 2 members of the Council appointed for the purpose, one of whom shall be a person appointed under section 3(2)(b), and the members shall determine whether the complaint should be referred to the Council.

17. Inquiry committee and rules of conduct

(1) The Council may refer any complaint alleging a disciplinary offence to an inquiry committee for decision, and for that purpose the Council may establish an inquiry committee of not less than 3 of its members, one of whom shall be a person appointed under section 3(2)(b), to determine whether or not the registered chiropractor against whom the complaint is made has committed a disciplinary offence.

(2) The Secretary shall send notice of a referral under subsection (1) and an adequate statement of the substance of the complaint by prepaid registered post to the registered address of the registered chiropractor.

(3) The Council may make rules providing for the conduct of its inquiries by an inquiry committee and for other matters relating to the investigation of an alleged disciplinary offence.

(4) The Legal Adviser shall be present at every inquiry conducted by an inquiry committee.

(5) The inquiry committee shall not proceed to hear evidence of a complaint concerning a disciplinary offence unless it is satisfied that the requirements of subsection (2) have been complied with and that the registered chiropractor in respect of whom the complaint is made has been given 28 days' notice of the complaint and the date, time and place of the hearing.

(6) The registered chiropractor referred to in subsection (5) shall be entitled to attend and hear all evidence produced at the hearing and informed of any advice tendered by the Legal Adviser to the inquiry committee under section 7(3) and shall be provided with a copy of this Ordinance and any rules made under this section.

(7) The Council may make rules for the rehearing of an inquiry by an inquiry committee.

(8) Where a registered chiropractor is alleged to have committed a disciplinary offence under section 16(1)(b) or (f), the inquiry committee—

(a) shall not be required to inquire whether the registered chiropractor was properly convicted of the alleged offence; and

(b) may consider any record of the case in which a conviction was recorded and any other evidence which the inquiry committee may think is relevant as showing the nature and gravity of the offence.

(9) The inquiry committee may, in deciding whether a person has committed a disciplinary offence, have regard to any rules of professional conduct or Code of Practice made or issued by the Council.

18. Disciplinary order of inquiry committee

Where an inquiry committee finds that a registered chiropractor committed a disciplinary offence, the inquiry committee may make any one or more of the following orders—

(a) order the Secretary to remove the name of the registered chiropractor from the register;

(b) order the Secretary to remove the name of the registered chiropractor from the register for such period as the inquiry committee may think fit;

(c) reprimand the registered chiropractor in writing and order the Secretary to record the reprimand in the register;

(d) order that an order made under this section be suspended, subject to such conditions as the inquiry committee may think fit, for a period not exceeding 2 years;

(e) order that the Council shall not accept an application from the person being the subject of an order under paragraph (a) or (b) for registration as a registered chiropractor either for a fixed period or until that person satisfies the Council that he should be so registered;

(f) make any other order as it thinks fit, but no such order shall be of greater severity than those in paragraphs (a) to (e).

19. Powers in regard to obtaining of evidence and conduct at inquiry

(1) An inquiry committee shall have power—

(a) to hear, receive and examine evidence on oath;

(b) to summon any person to attend the inquiry either as the person whose conduct is the subject of the inquiry or to give evidence or