

LEGISLATIVE COUNCIL BRIEF

Chinese Medicine Ordinance, Cap. 549

CHINESE MEDICINE PRACTITIONERS (REGISTRATION) REGULATION

CHINESE MEDICINE PRACTITIONERS (DISCIPLINE) REGULATION

INTRODUCTION

On 15 May 2000, the Chinese Medicine Council of Hong Kong (“the Council”), with the approval of the Secretary for Health and Welfare and in exercise of the power under Section 161(5) of the Chinese Medicine Ordinance (Cap. 549), made the Chinese Medicine Practitioners (Registration) Regulation, at — Annex A, and the Chinese Medicine Practitioners (Discipline) Regulation, at — Annex B.

BACKGROUND AND ARGUMENT

General Background

2. The Chinese Medicine Ordinance (“the Ordinance”), enacted by the Legislative Council in July 1999, provides a statutory framework for the regulation of the practice, use, trading and manufacture of Chinese medicine in Hong Kong. The Ordinance provides for the establishment of a Chinese Medicine Council of Hong Kong (“the Council”), to be responsible for devising and implementing these regulatory measures.

3. The Council was established in September 1999, and proceeded immediately to prepare for the setting up of a registration system for Chinese medicine practitioners. Apart from recognizing the professional status of Chinese medicine practitioners, the registration system will help enhance the standard and public confidence in Chinese medicine practice.

4. The registration system for Chinese medicine practitioners will operate through a combination of examination, registration and discipline. A Chinese Medicine Practitioners Board (“the Practitioners Board”) has been set up under the Council to be responsible for implementing this registration system. Before the registration may proceed, the following regulations have to be made:-

- (a) The Chinese Medicine Practitioners (Fees) Regulation, setting out the level of fees payable for registration as Chinese medicine practitioners and other related purposes;
- (b) The Chinese Medicine Practitioners (Registration) Regulation, setting out certain registration procedures and related matters; and
- (c) The Chinese Medicine Practitioners (Discipline) Regulation, setting out the disciplinary procedures to be followed in handling complaints against registered Chinese medicine practitioners.

5. The Chinese Medicine Practitioners (Registration) Regulation and the Chinese Medicine Practitioners (Discipline) Regulation were made by the Council on 15 May 2000. Details about the Chinese Medicine Practitioners (Fees) Regulation will be the subject of a separate brief.

THE REGULATIONS

(A) The Chinese Medicine Practitioners (Registration) Regulation

6. The **Chinese Medicine Practitioners (Registration) Regulation** sets out certain procedures related to the handling of applications for registration and prescribes the form of the practising certificate for registered Chinese medicine practitioners.

7. Clause 1 provides that the Regulation shall come into operation on a day to be appointed by the Secretary for Health and Welfare by notice in the Gazette. Clause 3 prescribes the form of the practising certificate for registered Chinese medicine practitioners. The form of the practising certificates is provided for in Schedule 1. Clause 4 provides for the issue of duplicate copies of certificates of passing a Licensing Examination and the issue of certified copies of an entry in the Register by the Registrar. Clause 5 provides for the procedures to be adopted in relation to applications for renewal of limited registration.

8. Clauses 6 to 9 provide for the procedures relating to reference to the Disciplinary Committee of the Practitioners Board of the details of an applicant

who may have been convicted of an offence punishable with imprisonment or found guilty of misconduct in a professional aspect in Hong Kong or elsewhere.

9. Clauses 10 to 21 provide for the procedures to be followed at inquiries conducted by the Practitioners Board.

10. Clauses 22 to 24 provide for the procedures for a review under sections 62, 66 or 96 of the Ordinance. Clauses 25 to 29 provide for the procedures for an appeal made to the Council under section 97 of the Ordinance. Clauses 30 to 32 provide for the powers of the Council in various matters including its power in regulating its own procedure in relation to the hearing of an appeal made under section 97 of the Ordinance.

11. Clause 33 deals with the procedures relating to application under section 90 of the Ordinance for inclusion in the list maintained by the Practitioners Board. Clause 34 provides for the requirements for assessing the qualification of an applicant by the Practitioners Board.

12. Clauses 35 and 36 provide for proof of service of documents and obligation for a person to attend and give evidence at an inquiry .

(B) The Chinese Medicine Practitioners (Discipline) Regulation

13. The **Chinese Medicine Practitioners (Discipline) Regulation** provides for the procedures to be adopted by the Practitioners Board and its Disciplinary Committee in respect of disciplinary matters under the Ordinance.

14. Clause 1 provides that the Regulation shall come into operation on a day to be appointed by the Secretary for Health and Welfare by notice in the Gazette.

15. Clauses 3 to 5 of the Regulation provide for the handling of a complaint against or information about a registered Chinese medicine practitioner received by the Disciplinary Committee. Clauses 6 and 7 provide for the procedures for the consideration by the Disciplinary Committee of such a complaint or information and the referral of the case to the Practitioners Board for inquiry. Clause 8 provides that the Practitioners Board may consolidate charges against a registered Chinese medicine practitioner and amend the notice of inquiry. Clauses 9 and 10 provide for the production of documents.

16. Various matters such as the power of the Practitioners Board chairman to adjourn an inquiry and to direct the Board Secretary to record proceedings are set out in clauses 11 and 12.

17. Clauses 13 to 15 provide for the procedures to be followed at an inquiry.

18. Clause 16 provides for the order of proceedings to be observed at an inquiry. Clauses 17 to 21 provide for matters relating to the making of determinations and disciplinary orders .

19. Clause 22 deals with matters relating to the presentation of evidence at an inquiry. Clause 23 deals with the manner in which the Practitioners Board may make a decision.

20. Clause 24 provides for proof of service of a notice or other communication on any person under the Regulation.

BASIC LAW IMPLICATIONS

21. The Department of Justice advised that the two Regulations are consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

22. The Department of Justice advised that the two Regulations do not conflict with those provisions of the Basic Law carrying human rights implications.

BINDING EFFECT OF THE LEGISLATION

23. The two Regulations will not affect the current binding effect of the Chinese Medicine Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

24. The Department of Health will require a secretariat of 12 staff at a full annual cost of about \$9 million to serve the Chinese Medicine Council of Hong Kong and to administer the registration and disciplinary system.

25. The Chinese Medicine Practitioners (Fees) Regulation will provide for the level of fees relating to the registration of Chinese medicine practitioners.

PUBLIC CONSULTATION

26. The two Regulations deal with mainly procedural matters relating to the registration and discipline of Chinese medicine practitioners. They have been thoroughly examined by the Chinese Medicine Council of Hong Kong, which consists of members of the Chinese medicine professions, academics and other community leaders.

LEGISLATIVE TIMETABLE

27. The two Regulations will be gazetted on 19 May 2000 and tabled at the Legislative Council on 24 May 2000.

PUBLICITY

28. We will issue a press release on 19 May 2000 when the two Regulations are published in Gazette.

Enquiries

29. Any enquiries on this brief should be addressed to Mr William Tsui, Assistant Secretary for Health and Welfare at 2973 8117 or by fax at 2840 0467.

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