

# **Traditional Chinese Medicine Practitioners (Investigation of Complaints) Regulations**

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### Legislative History

#### TRADITIONAL CHINESE MEDICINE PRACTITIONERS ACT (CHAPTER 333A, SECTION 36)

#### TRADITIONAL CHINESE MEDICINE PRACTITIONERS (INVESTIGATION OF COMPLAINTS) REGULATIONS

Rg 4

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### Citation

1. These Regulations may be cited as the Traditional Chinese Medicine Practitioners (Investigation of Complaints) Regulations.

### Definitions

2. In these Regulations —

“advocate and solicitor” has the same meaning as in the Legal Profession Act (Cap. 161);

“appointed person” means a person appointed by the Board under regulation 5;

“Investigation Committee” means an Investigation Committee appointed under section 28 of the Act.

### Complaint or information to be dealt with under these Regulations

3.—(1) Any complaint against a registered person in connection with any of the matters specified in section 19(1) of the Act (other than paragraph (d)) shall be in writing and shall be dealt with by the Board in accordance with these Regulations.

(2) Subject to paragraph (3), where the complaint relates to any matter referred to in section 19 (1) (e), (f), (i), (j) or (k) of the Act, the complaint shall be supported by a statutory declaration which shall state —

- (a) the name, address and occupation of the complainant;
- (b) the grounds of the complaint; and
- (c) the evidence supporting the complaint.

(3) The Board may waive the statutory declaration if the complaint is made by a public officer, a member of the Board or the Registrar.

(4) Where a registered person is alleged to have been convicted of an offence specified in section 19 (1) (g) or (h) of the Act, the complaint may be in the form of a report submitted by the Registrar of the Supreme Court or the Registrar of the Subordinate Courts or a public officer.

(5) Where a complaint is made by a member of the Board, that member shall be disqualified from taking part in any deliberation of the Board relating to his complaint or be appointed as a member of an Investigation Committee conducting an inquiry into his complaint.

### **Board to consider complaint**

4.—(1) Where, upon considering a complaint, the Board is satisfied that the complaint does not disclose a prima facie case for inquiry, the Board shall direct that the complaint be dismissed.

(2) Where, upon considering a complaint, the Board is satisfied that the complaint discloses a prima facie case for inquiry, the Board shall direct the Registrar to serve on the registered person —

- (a) a copy of the complaint and any statutory declaration furnished under regulation 3; and
- (b) a notice inviting the registered person to submit to the Board within such period (not being less than 14 days) as may be specified in the notice such explanation in writing as he may wish to offer on the complaint.

(3) Upon considering any explanation submitted by the registered person under paragraph (2)(b), the Board may —

- (a) direct that the complaint be dismissed;
- (b) subject to paragraph (5), direct that the registration of the registered person be cancelled or, where applicable, that such other measure specified in section 19(2) of the Act be taken against him; or

(c) direct that the matter be referred to an Investigation Committee for an inquiry.

(4) For the purposes of paragraph (3), where the complaint is based on the conviction of the registered person of an offence specified in section 19 (1) (g) or (h) of the Act, the Board may have regard to the record of the proceedings in court relating to that offence.

(5) The Board shall comply with section 19(3) of the Act when making any direction under paragraph (3)(b).

### **Appointment of advocate and solicitor or public officer**

5.—(1) For the purpose of an inquiry under these Regulations, the Board may appoint an advocate and solicitor or a public officer to assist the Investigation Committee in conducting an inquiry.

(2) An advocate and solicitor appointed under paragraph (1) may be paid such fees as the Board may approve.

### **Notice of inquiry**

6.—(1) Where the complaint is referred to an Investigation Committee, the Board shall direct the Registrar to serve on the registered person a notice which shall —

- (a) specify the complaint which the Committee will inquire into;
- (b) state the date, time and place at which the inquiry will be held; and
- (c) be accompanied by a copy of the report of any expert witness whom the appointed person intends to call at the inquiry.

(2) The inquiry shall not be held earlier than 28 days after the date of the notice, except with the agreement of the registered person.

### **Postponement of inquiry**

7.—(1) The Investigation Committee may, of its own motion or upon the application of any party, postpone the commencement of the inquiry to such date as the Committee may determine.

(2) An application for postponement of the commencement of an inquiry shall be —

- (a) made to the Investigation Committee through the executive secretary of the Board;
- (b) copied to the Registrar at least 21 days before the date fixed for the commencement of the inquiry, or such shorter period as the Committee

may allow; and

- (c) supported by valid reasons.

### **Supply of documents**

8.—(1) If a registered person wishes to raise any defence at the inquiry, he or his counsel shall, at least 10 days before the date fixed for the commencement of the inquiry, send to the appointed person —

- (a) a concise statement of the grounds of his defence; and
- (b) any report or document in support of the grounds of his defence, including the report of any expert witness whom the registered person or his counsel intends to call at the inquiry.

(2) The appointed person shall, as soon as possible, send to the executive secretary of the Board a copy of any statement, report or document received under paragraph (1).

(3) The appointed person and the registered person or his counsel shall, as far as possible, prepare an agreed statement of facts, an agreed bundle of documents or exhibits to be used at the inquiry, and their lists of witnesses to be called at the inquiry.

(4) The appointed person shall, at least 5 days before the date of commencement of the inquiry, send the following, if available, to the executive secretary of the Board and to the registered person or his counsel:

- (a) the opening statement of the parties;
- (b) the agreed statement of facts;
- (c) the agreed bundle of documents or exhibits to be used at the inquiry;
- (d) the lists of witnesses whom the parties intend to call at the inquiry; and
- (e) copies of any other documents which are to be used at the inquiry.

(5) The appointed person may —

- (a) request the registered person or his counsel to send to him copies of any document in the possession of the registered person or his counsel which are relevant to the matter before the inquiry; or
- (b) give notice to the registered person or his counsel to produce before the Investigation Committee any such document.

### **Evidence at inquiry**

9. A person attending the inquiry shall give evidence under oath or affirmation.