

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

TRADITIONAL CHINESE MEDICINE PRACTITIONERS  
(INVESTIGATION OF COMPLAINTS)  
REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

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[1st October 2001]

## **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.

### **Representation at inquiry**

**10.**—(1) The case against the registered person may be presented by the appointed person at the inquiry.

(2) The registered person may appear in person or be represented by counsel at the inquiry.

### **Inquiry not open to public**

**11.** An inquiry by the Investigation Committee under these Regulations shall be held in private.

### **Conduct of inquiry**

**12.**—(1) If the registered person does not appear at the inquiry, the Investigation Committee may proceed with the inquiry after satisfying itself that a notice of inquiry was served on him in accordance with regulation 6.

(2) The Investigation Committee shall adopt the following procedure for holding its inquiry but may, in any particular case, make such variations or modifications as it thinks fit:

- (a) the complaint shall first be read out to the registered person;
- (b) the registered person or his counsel may object to the complaint on a point of law, and if any such objection is upheld, no further proceedings shall be taken by the Committee on the complaint to which the objection relates;
- (c) the appointed person shall present the facts on which the complaint is based, and adduce evidence of facts alleged in the complaint;
- (d) the registered person or his counsel may adduce evidence on the registered person's behalf to substantiate his defence;
- (e) the appointed person and the registered person or his counsel may cross-examine witnesses of the other party after the evidence-in-chief has been completed, and each party may re-examine their witnesses after the cross-examination;
- (f) at the close of his case, the registered person or his counsel may address the Committee; and
- (g) the appointed person shall make his closing address.

(3) The Investigation Committee shall not be bound to act in a formal manner and shall not be bound by the Evidence Act (Cap. 97) or by any other written law or rule of law relating to evidence, but may inform itself on any matter in such manner as it thinks fit.

(4) The Investigation Committee may, in its discretion, conduct proceedings under these Regulations notwithstanding the absence of one of its members and the validity of the proceedings shall not be challenged on this ground.

(5) No act done by or under the authority of the Investigation Committee shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of any of its members.

(6) If the Investigation Committee is satisfied that the registered person or his counsel is hampering or attempting to hamper the progress of the inquiry, the Committee shall administer a warning to the registered person and, where appropriate, his counsel.

(7) If the Investigation Committee is satisfied that a warning administered under paragraph (6) is being disregarded, the Committee shall make a record to that effect and shall proceed to complete the inquiry in such manner as it thinks fit.

### **Adjournments**

**13.—**(1) The Investigation Committee shall proceed with its inquiry from day to day and no adjournment shall be given except for reasons to be recorded in writing.

(2) No adjournment shall be given for more than 14 days except with the permission of the Chairman of the Board.

### **Report of Investigation Committee**

**14.—**(1) At the conclusion of the inquiry, the Investigation Committee shall consider whether the complaint has been proven to its satisfaction.

(2) The Investigation Committee shall inform the registered person or his counsel of its findings in relation to the facts of the case either immediately or on a subsequent date of which reasonable notice is to be given.

(3) If the Investigation Committee determines that any complaint has been proven to its satisfaction, the registered person or his counsel may address the Committee in mitigation.

(4) After hearing any address referred to in paragraph (3), the Investigation Committee shall proceed to prepare its report which shall comprise —

- (a) the findings of the Committee; and
- (b) the recommendations of the Committee for the Board to do any of the following:
  - (i) direct that the complaint be dismissed;
  - (ii) direct that the registration of the registered person be cancelled; or
  - (iii) direct, where applicable, that one or more measures specified in section 19 (2) of the Act be imposed.

### **Record of proceedings**

**15.—**(1) The record of the inquiry shall comprise —

- (a) information obtained at the inquiry;
- (b) copies of all relevant statements, documents and reports used during the investigation; and
- (c) the report of the Investigation Committee.

(2) The information obtained at the inquiry may be in the form of question and answer or in the form of a narrative.

(3) Notwithstanding the information obtained at the inquiry is in the form of a narrative, the Investigation Committee may, in its discretion, record any particular question and answer.

### **Decision of Board**

**16.—**(1) Subject to paragraph (3), the Board may, upon considering the report of the Investigation Committee —

- (a) accept the recommendation of the Committee;
- (b) direct the Committee to reconvene to investigate further into the complaint, or undertake such further investigation itself; or
- (c) make such other direction as the Board thinks fit.



(2) The registered person shall be given not less than 14 days notice of any further meeting of the Investigation Committee or of the Board under paragraph (1) (b).

(3) The Board shall comply with section 19 (3) of the Act when making a direction for the cancellation of the registration of a registered person or, where applicable, for one or more of the measures specified in section 19 (2) of the Act.

(4) The Registrar shall notify the registered person and the complainant of the decision of the Board.

(5) The Board may inform the dean or registrar or other officer of any university, college, institution or other examination body from which the registered person received his degree or qualification of the Board's decision.

(6) The Board may, in its discretion, publish an account of the inquiry by the Investigation Committee, its findings and the decision of the Board.

### **Copies of information obtained at inquiry, etc.**

17. Upon the application of any interested person and payment of the fee specified in the Schedule, the Board may furnish to such person a copy of the transcript of the inquiry or of any statement, report or document tendered at the inquiry.

#### THE SCHEDULE

Regulation 17

#### FEES

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|---|--|
| 1. Copy of information obtained at inquiry —  |  |
| (a) where information is in form of transcription<br>done by private party engaged by Board | cost of transcription<br>and 10% of the cost |
| (b) in any other case   | \$10 per page.                               |
| 2. Copy of statement, report or document tendered<br>at inquiry                             | \$0.50 per page.                             |

[G.N. No. S 474/2001]