

香港中醫藥管理委員會
Chinese Medicine Council of Hong Kong

**Code of Practice for
Listed Chinese Medicine Practitioners**

(English Translation)

2001

**Code of Practice for
Listed Chinese Medicine Practitioners**

Listed Chinese medicine practitioners are earnestly advised to read through this Code of Practice and to acquaint themselves thoroughly with its contents, thereby avoiding the danger of inadvertently transgressing this Code which may lead to disciplinary action by the Chinese Medicine Practitioners Board of the Chinese Medicine Council of Hong Kong.

Chinese Medicine Practitioners Board
Chinese Medicine Council of Hong Kong
2001

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Part 1

Introduction

The Chinese Medicine Council of Hong Kong (the Council) is established under the Chinese Medicine Ordinance (Cap. 549). To ensure high standards of professional practice and conduct of Chinese medicine practitioners, the Chinese Medicine Practitioners Board (the Practitioners Board) of the Council has compiled this Code of Practice.

2. The objective of this Code of Practice is to provide guidelines for listed Chinese medicine practitioners, so that they can conform to the professional standards and requirements in carrying out professional responsibilities. A listed Chinese medicine practitioner should always maintain good personal conduct and avoid damaging the reputation of the profession. He should discharge his duties and responsibilities to the patients, the profession, the members of other healthcare professionals and the public in general with dedication and integrity. He should maintain a high standard of practice by exercising competent professional judgment and by continually striving to improve his knowledge and professional skills.

3. According to section 90(3)(a) of the Chinese Medicine Ordinance, the Practitioners Board requires that a listed Chinese medicine practitioner should comply with this Code of Practice as a condition for practice. The Practitioners Board has the power to remove from the list maintained by it, the name of a listed Chinese medicine practitioner who has failed to comply with this Code of Practice according to section 91 of the Chinese Medicine Ordinance.

4. All listed Chinese medicine practitioners should acquaint themselves thoroughly with the meaning of “Misconduct in a Professional Respect” stated in Part 2 and the Code of Practice for listed Chinese medicine practitioners as set out in Part 3 of this Code.

5. A listed Chinese medicine practitioner who is suspected to have contravened the Code of Practice may be subject to inquiries held by the Practitioners Board. The fact that some matters are not mentioned in the Code shall not preclude the Practitioners Board from judging whether a listed Chinese medicine practitioner has been guilty of professional misconduct by reference to those matters.

6. If listed Chinese medicine practitioners desiring detailed advice on questions of professional conduct arising in particular circumstances are advised to consult their professional association, their own legal advisors or senior colleagues for advice on such matter. The Practitioners Board having regard to its quasi-judicial function, is not able to advise individuals.

7. A copy of this Code will be served upon each person whose name has been entered on the list of listed Chinese medicine practitioners under the Chinese Medicine Ordinance. The Practitioners Board will make suitable amendments to this Code of Practice from time to time having regard to changing circumstances in society.

8. All listed Chinese medicine practitioners should acquaint themselves with the provisions of the Chinese Medicine Ordinance and the procedure for handling non-compliance of the “Code of Practice for Listed Chinese Medicine Practitioners” by listed Chinese medicine practitioners. Full copies of the Ordinance may be purchased from the Government Publications Centre, or downloaded from the internet website (www.justice.gov.hk). The procedure for handling non-compliance of the “Code of Practice for Listed Chinese Medicine Practitioners” by listed Chinese medicine practitioners is at Appendix II.

Part 2

The Meaning of “Misconduct in a Professional Respect”

“Misconduct in a professional respect” is defined as “If a listed Chinese medicine practitioner has breached the Code of Practice, or in the pursuit of his profession, has done something which has fallen short of the standards of conduct expected among his professional colleagues, or does something which will be reasonably regarded as disgraceful, unethical or dishonourable by his professional colleagues who are of good repute and competency, then it is open to the Chinese Medicine Practitioners Board of the Chinese Medicine Council, if that be shown, to say that he has been guilty of professional misconduct.”

2. Part 3 sets out the Code of Practice for listed Chinese medicine practitioners with which the Practitioners Board considers listed Chinese medicine practitioners should comply. If a listed Chinese medicine practitioner contravenes any part of the Code, he will be considered to have committed misconduct in a professional respect. The fact that some matters are not mentioned in the Code in Part 3 shall not preclude the Board from judging whether a listed Chinese medicine practitioner has been guilty of professional misconduct by reference to those matters.

3. The Practitioners Board will determine the seriousness of misconduct by the rules, be they written or unwritten, of the profession of Chinese medicine practitioners.

Part 3

The Code of Practice for listed Chinese medicine practitioners

This part sets out the Code of Practice for listed Chinese medicine practitioners. If a listed Chinese medicine practitioner is found to be in breach of the Code, the Practitioners Board may remove his name from the list of listed Chinese medicine practitioners according to section 91 of the Chinese Medicine Ordinance. This Code of Practice cannot specify all the forms of misconduct which may lead to disciplinary proceedings. Listed Chinese medicine practitioners should be cautious of their conduct so as to maintain the professional standard and conduct of the listed Chinese medicine practitioners.

1. Discipline

- (1) A listed Chinese medicine practitioner must abide by the law;
- (2) If a listed Chinese medicine practitioner has been convicted of an offence punishable with imprisonment in Hong Kong or elsewhere (irrespective of whether a prison term is imposed or not), or found guilty of misconduct in a professional respect, he must report to the Practitioners Board immediately; and
- (3) A particularly serious view will be taken by the Practitioners Board if a listed Chinese medicine practitioner is convicted of criminal deception (e.g. obtaining money or goods by false pretences), forgery, fraud, theft, indecent behaviour or assault.

2. Professional Responsibility

- (1) A listed Chinese medicine practitioner must be professionally responsible to a patient;
- (2) A listed Chinese medicine practitioner must explain patiently to a patient about his medical conditions, method of treatment and the precaution in taking drugs, etc. and the practitioner should not perform his duties in a perfunctory manner;
- (3) A listed Chinese medicine practitioner must work hard to improve his professional knowledge and skills, and pursue continuing education as required by the Practitioners Board, so as to maintain high professional standards in providing medical care to patients;
- (4) When performing his professional duties, a listed Chinese medicine practitioner should ensure that his professional capability is not affected (such as under the influence of alcohol or drugs); and

- (5) A listed Chinese medicine practitioner may make medical referrals if necessary, and the registered medical professionals to whom a patient is referred should be able to provide the required diagnosis or treatment.

3. Professional Ethics

- (1) A listed Chinese medicine practitioner should not abuse his professional position in order to develop an improper or indecent association with a person with whom he stands in a professional relationship;
- (2) A listed Chinese medicine practitioner should not misuse or disclose information obtained from his patients. The requirements of the Personal Data (Privacy) Ordinance must be complied with when releasing information of patients;
- (3) A listed Chinese medicine practitioner should not take advantage of his position to obtain benefits other than the specified fees for professional service;
- (4) A listed Chinese medicine practitioner should not receive payment by way of commission, rebate or otherwise for patient referrals. He should also not offer to give or pay any commission, rebate or otherwise to any person or organization that accepts a patient referral by him for diagnosis or treatment;
- (5) A listed Chinese medicine practitioner should choose the medicines or apparatus that will best serve the medical interest of a patient according to independent professional judgment; and
- (6) A listed Chinese medicine practitioner should not disparage another listed Chinese medicine practitioner or other medical and healthcare professionals and should not flaunt himself.

4. Practising Criteria

- (1) The Notification to Listed Chinese Medicine Practitioner should be displayed at a conspicuous place in the clinic;
- (2) A listed Chinese medicine practitioner should set up and keep personal medical records for patients under his care;
- (3) A listed Chinese medicine practitioner should make prescriptions which conform with professional standards and refrain from prescribing excessive medicines;
- (4) A listed Chinese medicine practitioner should not prescribe Schedule 1 Chinese herbal medicines of the Chinese Medicine Ordinance (remarks: according to section 109 of the Chinese Medicine Ordinance, only registered Chinese medicine practitioners can prescribe Schedule 1 Chinese herbal medicines);

- (5) A listed Chinese medicine practitioner should issue prescriptions to patients;
- (6) A listed Chinese medicine practitioner must ensure all issued prescriptions clear and legible;
- (7) Issued prescriptions should include the following information:
 - (a) name, address, contact telephone number and signature of the listed Chinese medicine practitioner;
 - (b) name of patient;
 - (c) names of all Chinese herbal medicines (the names of Chinese herbal medicines should be based on the names in the relevant schedule of the Chinese Medicine Ordinance. Chinese herbal medicines not listed in the schedules should be based on the names in the “Pharmacopoeia of the People’s Republic of China”(《中華人民共和國藥典》), the “Chinese Materia Medica”(written by XU Guojun etc.) (《中醫藥材學(徐國鈞等著)》), the “Dictionary of Chinese Herbal Medicines” (《中藥大辭典》) or the “Chinese Herbal Medicines” (《中華本草》);
 - (d) dosages of all Chinese medicines;
 - (e) preparation method and route of administration for that prescription of Chinese herbal medicines;
 - (f) method of use of the proprietary Chinese medicines;
 - (g) number of times of re-dispensing, if any; and
 - (h) issuing date of the prescription;
- (8) A listed Chinese medicine practitioner should not issue professional documents which are untruthful or misleading.

5. Medical Practice

A listed Chinese medicine practitioner should be professionally responsible to patients and abide by the regulations stipulated in the relevant medical ordinances to best serve the medical interests of patients. He should master relevant knowledge and skills in order to perform his professional duties. When necessary, he should make appropriate medical referrals.

(1) Diagnostic techniques

A listed Chinese medicine practitioner can only use the relevant diagnostic techniques (including modern diagnostic techniques) after he has passed the professional assessment, having the appropriate medical apparatuses and acting in accordance with the requirements of the relevant medical legislation.

- (2) Methods of treatment
 - (a) A listed Chinese medicine practitioner should adopt treatment methods on the basis of Traditional Chinese Medicine in prescribing Chinese herbal medicines or proprietary Chinese medicines, and in the use of traditional therapeutic apparatuses or other innovative therapeutic apparatuses that are developed with Chinese medicine theory and
 - (b) A listed Chinese medicine practitioner should not use other treatment methods as provided under laws concerning other medical and healthcare professions.

6. Practice Promotion

- (1) Definition and Principles
 - (a) Definition

Practice promotion refers to the adoption of various promotion measures to enhance the popularity of a listed Chinese medicine practitioner so as to gain benefits from his business, including the promotion of a listed Chinese medicine practitioner, his work or his practice, by himself or others. The means may include the provision of information, and canvassing in relation to both the public or patients.
 - (b) Principles

Any information provided by a listed Chinese medicine practitioner to the public or a patient should be legal, honest, truthful, factual and not exaggerated, and should not claim superiority over or disparage other listed or registered Chinese medicine practitioners.
- (2) Rules
 - (a) A listed Chinese medicine practitioner who has a professional relationship with an organization (e.g. a listed Chinese medicine practitioner who accepts for examination or prescription a patient referred to him by such organization) which advertises any service that involves his participation should use his best endeavours to ensure that such advertising conforms with the above principles. Should any question be raised about a listed Chinese medicine practitioner's conduct in this respect, the Practitioners Board will not accept any explanation to be based on the Chinese medicine practitioner's lack of awareness of the nature or content of the organization's advertising; and
 - (b) A listed Chinese medicine practitioner should not engage in practice promotion or permit others to do so on his behalf or for his benefit.

(3) Dissemination of information to the public

(a) Signs

A listed Chinese medicine practitioner may exhibit signs that are related to his practice. The nature, position, size and wording of these signs should be reasonably necessary for the purpose of indicating the location of and entrance to the premises concerned.

(b) Signboard

'Signboard' includes any composite notice(s) exhibited by a listed Chinese medicine practitioner to identify his practice to the public:

(i) General criteria: Signboards may only be exhibited on the premises at which the practice they refer to is conducted, and they should not be ornate. Except at night or where they are situated in a dark place, no illumination is allowed and any such illumination should be the minimum necessary to allow the content to be read. Flash signboard is not allowed.

(ii) The particulars which may appear on signboards are:

- ◆ name of the listed Chinese medicine practitioner or the name by which the practice is known, in Chinese and English;
- ◆ Chinese title of “中醫” or “中醫師” or English title of “Chinese medicine practitioner”;
- ◆ an indication of the location of the Chinese medicine practitioner's clinic in the building; and
- ◆ consultation hours.

(iii) Please refer to Appendix I for the regulation regarding the size, number and position of signboards.

(c) Stationery

Stationery means visiting cards, letterheads, envelopes, prescription slips, notices, etc. in connection with the practice. Stationery may only contain the following information:

- (i) name of the listed Chinese medicine practitioner, and (where appropriate) the names of his partners, assistants or associates in the practice;
- (ii) Chinese title of “中醫” or “中醫師” or English title of “Chinese medicine practitioner”;
- (iii) address(es) of the practice;
- (iv) consultation hours; and
- (v) telephone and facsimile numbers, e-mail information, etc.

(d) Newspaper announcements

Only announcements of commencement of practice or alteration of conditions of practice (e.g. change of address, partnership, etc.) are permissible in local newspapers. The announcements should be completed within two weeks of the commencement / alteration and should comply with the regulations stipulated in this Code of Practice. The size of the announcement should not exceed 100cm². A listed Chinese medicine practitioner should not make announcements by other means (including promotion materials either distributed or mailed, radio, TV or e-mail, etc.). Newspaper announcements may contain only the following information:

- (i) name of the listed Chinese medicine practitioner, and (where appropriate) the names of his partners, assistants or associates in the practice;
- (ii) Chinese title of “中醫” or “中醫師” or English title of “Chinese medicine practitioner”;
- (iii) address(es) of the practice;
- (iv) consultation hours; and
- (v) telephone and facsimile numbers, e-mail information, etc.

(e) Telephone directories

Telephone directory entries may be listed under the appropriate descriptive title (e.g. Chinese medicine practitioner) and may contain only the following information:

- (i) name of the listed Chinese medicine practitioner, and (where appropriate) the names of his partners, assistants or associates in the practice;
- (ii) Chinese title of “中醫” or “中醫師” or English title of “Chinese medicine practitioner”;
- (iii) address(es) of the practice; and
- (iv) telephone number

(f) Internet website

Only the following information may be published on an internet website:

- (i) name of the listed Chinese medicine practitioner, and (where appropriate) the names of his partners, assistants or associates in the practice;
- (ii) Chinese title of “中醫” or “中醫師” or English title of “Chinese medicine practitioner”;
- (iii) address(es) of the practice;
- (iv) consultation hours; and
- (v) telephone and facsimile numbers, e-mail information, etc.

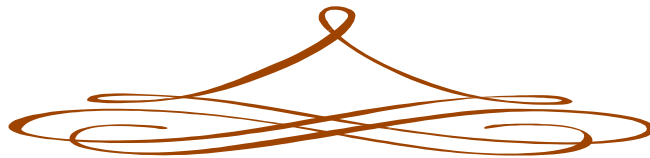
- (4) In disseminating information to patients, a listed Chinese medicine practitioner:
- (a) should conform to the principles and rules of this Code of Practice;
 - (b) should not involve in unsolicited visits or telephone calls by himself or by people acting on his behalf;
 - (c) should not abuse the patient's trust;
 - (d) should not put the patient under undue pressure; and
 - (e) should not offer guarantees to cure particular diseases.

(5) Canvassing

A listed Chinese medicine practitioner may not promote his service by himself or people acting on his behalf, by means of unsolicited visits or telephone calls, or advertisement through media such as television, radio and posters.

7. Conclusion

The types of misconduct described in this Code of Practice cannot be regarded as exhaustive, as new forms of professional misconduct may emerge from time to time with changing circumstances. Any abuse by a listed Chinese medicine practitioner of any of the privileges and opportunities afforded to him, or breach of the Code of Practice, may result in removal of his name from the list of listed Chinese medicine practitioners maintained by the Practitioners Board.



Sizes, number and position of signboards

I. Signboards

1. The area of a signboard is taken to be the length multiplied by the breadth of its face, or faces, including all borders.
2. The areas of any number of visible faces (i.e. can be read from different directions) on the signboards must not in aggregate exceed the permitted maximum size of signboards in that precise location. (Please refer to paragraph 4 and 6)
3. The maximum number of signboards a listed Chinese medicine practitioner is permitted to exhibit in total includes the number “Generally permitted” plus the number shown under “Additional signboards permitted”.

Generally permitted

4. Every listed Chinese medicine practitioner is permitted to exhibit not more than two signboards on or beside that door which gives immediate and direct access to his premises. The size of the signboards beside that door must not exceed 0.93m² (10ft²).

Additional signboards permitted

5. A listed Chinese medicine practitioner may exhibit additional signboards under the following conditions:
 - (a) For Ground Floor offices with direct access from the pavement
 - One signboard: the wording of which is visible from the street, exhibited below first floor level.
 - (b) For offices situated within a building having one public entrance
 - One signboard: the wording of which is visible from the street, exhibited at the floor level where the practice is conducted.
 - One signboard: the wording of which is visible from the street, exhibited adjacent to the public entrance to the building.
 - (c) For offices situated within a building having more than one public entrance
 - One signboard: the wording of which is visible from the street, exhibited at the floor

level where the practice is conducted.

Two signboards: the wording of which is visible from the street, exhibited adjacent to a maximum of two public entrances to the building.

6. Regulation of additional signboards permitted to exhibit is as follows:
 - (a) No additional signboard exhibited below First Floor level may exceed 0.93m^2 (10ft^2).
 - (b) No additional signboard exhibited at Mezzanine Floor or First Floor level may exceed 1.21m^2 (13ft^2).
 - (c) No additional signboard exhibited at a level above First Floor level may exceed 1.86m^2 (20ft^2).

II. Directory Boards

7. Where directory boards are provided in buildings having a number of entrances and lobbies, there will be no objection to the use of whatever number of boards are provided. The particulars which may appear on directory boards are those which may appear on signboards. Each entry must conform to the standard size for every other entry on the board.

III. Directional Notices

8. Directional notices must contain only the name of the listed Chinese medicine practitioner, the permitted prefix and the location of his premises. They can be exhibited only inside a building. The numbers which may be exhibited will be left to the discretion of the practitioner but the guidance given at Part 3 section 6(3) of this Code on "Practice Promotion" must be given due consideration.

9. Directional notices must not exceed 0.1m^2 (1ft^2) in area and all borders must be included in the calculation.

IV. Notices of Consulting Hours

10. Every listed Chinese medicine practitioner is permitted to exhibit one separate notice containing his name and details of his consultation hours provided that his information is not already shown on some other sign. The placement of such a notice is left entirely to the practitioner. However, it is emphasized that only one such notice is permitted and its maximum size, including borders, is limited to 0.2m^2 (2ft^2).

**Procedures for handling non-compliance of the
“Code of Practice for Listed Chinese Medicine Practitioners”
by listed Chinese medicine practitioners**

PART I
PRELIMINARY

1. Code of Practice for Listed Chinese medicine practitioners

According to section 90(3) of the Chinese Medicine Ordinance, the Practitioners Board requires all Listed Chinese Medicine Practitioners to comply with the “Code of Practice for Listed Chinese Medicine Practitioners”. This procedure sets out the steps to be taken by the Practitioners Board and the Disciplinary Committee in the course of handling non-compliance of the Code of Practice by listed Chinese medicine practitioners.

2. Interpretation

In this procedure, unless the context otherwise requires –

“Board” (中醫組) means the Chinese Medicine Practitioners Board established by section 12(a) of the Chinese Medicine Ordinance;

“Board chairman” (中醫組主席) means the chairman of the Board mentioned in section 13(a) of the Chinese Medicine Ordinance;

“Board secretary” (中醫組秘書) means the secretary of the Board appointed under section 23(2) of the Chinese Medicine Ordinance;

“Committee” (小組) means the Disciplinary Committee of Chinese Medicine Practitioners established under section 25(1)(a)(iii) of the Chinese Medicine Ordinance;

“Committee chairman” (小組主席) means the chairman of the Committee mentioned in section 28(a) of the Chinese Medicine Ordinance;

“Committee secretary” (小組秘書) means the secretary of the Committee;

“complainant” (申訴人) means a person who makes a complaint mentioned in section 3, and where the context permits, includes an informant;

“defendant” (被告人), in relation to a complaint or information, means a listed Chinese medicine practitioner in respect of whom a complaint or information has been made, and includes a person who has ceased to be a listed Chinese medicine practitioner after a complaint or information has been made in respect of him;

“legal representative” (法律代表) means –

- (a) a solicitor or counsel who holds a current practising certificate or a legal officer within

- the meaning of the Legal Officers Ordinance (Cap. 87) representing the Board secretary; or
- (b) a solicitor or counsel who holds a current practising certificate representing the defendant or complainant,
- at an inquiry under this set of procedures.

PART II

PROCEEDINGS PREPARATORY TO HOLDING OF A DISCIPLINARY INQUIRY BY THE BOARD

3. Receipt and submission of complaint or information

If the Committee receives a complaint or information alleging or showing any conduct of a listed Chinese medicine practitioner that is in breach of the Code of Practice for listed Chinese medicine practitioners, the Board shall deal with the complaint or information in accordance with this set of procedures.

4. Clarification and support for complaint or information

- (1) The Committee chairman may –
- (a) require the complainant to set out the specific allegations in writing and the grounds for the allegation;
 - (b) require the complainant to make clarifications or furnish evidence about the complaint or information;
 - (c) direct the Committee secretary to seek any legal advice or any necessary assistance or advice from any relevant authorities with regard to the evidence about the complaint or information;
 - (d) require that any matter alleged in the complaint or information be supported by one or more statutory declarations, unless the complaint or information is in writing and made by a public officer in the discharge of his duties.
- (2) A statutory declaration referred to in subsection (1) must –
- (a) state the name, address and the Hong Kong Identity Card number or details of another document of identification of the declarant; and
 - (b) state all the facts of the complaint or information to the best of the declarant's knowledge, or if any fact declared is not within his personal knowledge, state the source of the declarant's information and the grounds for his belief in the truth of those facts.

5. Reference of case to Committee

- (1) Where the Committee chairman considers that –
- (a) all further clarifications, evidence and statutory declarations that are necessary to enable the Committee to consider the complaint or information have been furnished;
 - or
 - (b) it is impracticable to seek further clarifications, evidence or statutory declarations,
- he shall –
- (i) if it appears to him that the complaint or information may be disposed of by the Committee making a decision referred to in section 6(6)(a) by resolution upon circulation of papers under section 48 of the Chinese Medicine Ordinance, arrange for such circulation of papers; or
 - (ii) if he thinks that it is not appropriate to arrange for circulation of papers in the particular case or that a resolution mentioned in paragraph (i) is unlikely to be made, he shall fix a date for the Committee to consider the complaint or information.
- (2) When the Committee chairman has fixed a date under subsection (1), he shall arrange to notify the defendant in writing –
- (a) of any matters or allegations which may constitute a breach of the Code of Practice for listed Chinese medicine practitioners at least 1 month before the date fixed; and
 - (b) of the date on which the Committee will meet to consider the complaint or information.
- (3) A notification under subsection (2) shall be accompanied by -
- (a) a copy of the complaint or information;
 - (b) a copy of any statutory declaration furnished under section 4(1); and
 - (c) an invitation to the defendant to submit to the Committee in writing any explanation of his conduct or of any matter alleged or shown in the complaint or information.
- (4) If the Committee chairman considers that in the particular circumstances of a case it is desirable that any personal particulars of any person contained in any documents mentioned in subsection (3)(a) or (b) should not be disclosed to the defendant, he may arrange for such necessary obliteration or other editorial modification of the copies of those documents to be supplied to the defendant so that those personal particulars are not disclosed.

6. Consideration of complaint, etc. by Committee

- (1) A meeting of the Committee to consider a complaint or information shall be held in private.
- (2) Within a reasonable period before any meeting of the Committee to consider a complaint or

information, the Committee secretary shall provide all members of the Committee who will consider the complaint or information with copies of all the documents relating to the complaint or information that he has received.

(3) The Committee may postpone its consideration or decision of a complaint or information, in whole or in part, to such date or adjourn a meeting from time to time as it thinks fit.

(4) Where the Committee considers that any matter or allegation notified to the defendant under section 5(2) should be amended, the Committee may direct the Committee secretary to –

- (a) make the amendment;
- (b) advise the defendant of the amendment; and
- (c) invite him to submit any further explanation.

(5) Before coming to a decision regarding a reference to the Board under subsection (6), the Committee may cause to be made such further investigations or further clarification from the defendant with regard to the case being considered by the Committee and with regard to his written explanation, and may seek such additional advice or assistance as it considers desirable.

(6) The Committee shall, having regard to any written explanation submitted by the defendant and all the materials before it, consider the case, and subject to subsections (4) and (5) –

- (a) if the Committee is of the opinion that –
 - (i) the complaint or information is frivolous or groundless;
 - (ii) the defendant has ceased to be a listed Chinese medicine practitioner;
 - (iii) the complaint or information has previously been considered and disposed of by the Committee and no additional information has been provided, it shall notify the defendant and the complainant that it decides not to refer the case to the Board; or
- (b) may by written notification refer the case to the Board.

7. Referral of case to the Board for inquiry

(1) The Committee chairman shall send a written notification mentioned in section 6(6)(b) to the Board chairman specifying the matters as identified by the Committee to be referred into which an inquiry is to be held.

(2) On receipt of a notification under subsection (1), if the Board decides that an inquiry –

- (a) should be held, the Board chairman shall fix the date of inquiry; or
- (b) should not be held, the Board secretary shall notify the Committee secretary of the decision, who shall inform the defendant and the complainant accordingly.

(3) Unless the Board directs a shorter period of notice to which the defendant has consented in writing, the Board secretary shall, within 2 months of the receipt of the notification under subsection

(1) and at least 1 month before the date fixed for the inquiry, serve on the defendant a notice of inquiry together with a copy of this set of procedures and shall inform the complainant of the date fixed.

- (4) A notice of inquiry served under subsection (3) must –
- (a) specify the matters into which the inquiry is to be held in the form of charge; and
 - (b) state the date, time and place at which the inquiry is to be held.

8. Consolidation of charges and amendment of notice of inquiry

(1) Where the Board secretary receives any further complaint or information that he thinks is similar in nature to a complaint or information before the Board against the same defendant, he shall refer it to the Committee as soon as practicable.

(2) Upon the recommendation of the Committee to hold an inquiry into any further complaint or information against the same defendant, the Board may direct that –

- (a) the further complaint or information or any part thereof be inquired into at the same inquiry against the defendant, and where the Board makes that direction, evidence relating to the further complaint or information may be introduced at the inquiry; and
- (b) the notice of inquiry be amended accordingly and served on the defendant within such period of time as may be specified in the direction.

(3) Where before the opening of the inquiry and in the course of the inquiry, it appears to the Board chairman that a notice of inquiry is defective, the Board chairman may give such directions for its amendment as he thinks necessary to remedy the defect unless, having regard to the merits of the case, he thinks that to make the required amendment will be unjust to the defendant.

(4) The Board secretary shall, as soon as it is practicable after an amendment of a notice of inquiry has been made under subsection (3), give notice of the amendment to the defendant and to the complainant.

9. Documents to be available to other party

(1) A party to an inquiry shall furnish to the other party, not less than 10 days before the date of an inquiry or such lesser period as both parties may agree, copies of all documents upon which he intends to rely on at the hearing of the inquiry.

(2) If any document mentioned in subsection (1) has not been furnished in accordance with that subsection, the Board may adjourn the inquiry.

10. Notice to produce

The Board chairman may at any time before the hearing of an inquiry, upon application by either party to the inquiry, order the other party to produce any material, record (in whatever form) or document which is relevant to any charge and alleged to be in the possession of that other party and, on failure to produce the material, record or document, the party who applied for the production may, with the permission of the Board chairman, prove it or the content of it by any alternative method.

PART III

PROCEEDINGS FOR A DISCIPLINARY INQUIRY
BY THE BOARD

11. Adjournment of inquiry

- (1) The Board chairman may adjourn an inquiry to such date as he thinks fit.
- (2) The Board secretary shall, when he is so directed by the Board chairman, give notice of an adjournment to the defendant and the complainant as directed.

12. Record of proceedings

- (1) The Board may direct the Board secretary to cause the proceedings to be recorded on tape or electronically and may arrange for the transcription of the tape recording or electronic record into a verbatim record in writing.
- (2) If a verbatim record of the proceedings or any part of it has been prepared, the Board chairman shall, on application to him by any party to the proceedings who has paid the appropriate prescribed fee, furnish the party with a copy of the record or any part of it as requested.

13. Opening of inquiry

- (1) At the opening of an inquiry, the Board secretary shall read the notice of inquiry to the Board.
- (2) If the defendant is neither present nor represented by his legal representative at the opening of the inquiry, the Board secretary shall furnish to the Board such evidence as the Board may require to prove that the notice of inquiry was served on the defendant and, on the Board being satisfied as to such evidence, the inquiry may be proceeded with to its conclusion notwithstanding the absence of the defendant.
- (3) If the defendant is present at the inquiry, the Board chairman shall, immediately after the notice has been read, inform him of his right to cross-examine witnesses, to give evidence and to call witnesses on his behalf.
- (4) After an inquiry has been opened under this section, it may be proceeded with to its

conclusion notwithstanding the absence of the defendant.

14. Objections on point of law

- (1) After the reading of the notice of inquiry, the defendant or his legal representative may object to any charge on a point of law, and upon such objection the other party may reply to the objection, and the defendant or his legal representative may answer the reply.
- (2) If the Board upholds the objection, it shall consider the charge only as it is modified by the objection so upheld.

15. Defendant may admit any charge

- (1) After the opening of an inquiry under section 13 and objections on point of law under section 14 (if any), the defendant or his legal representative may admit any charge in the notice of inquiry.
- (2) If the defendant or his legal representative admits any charge, the Board secretary shall read out to the Board such facts in support of the charge as agreed by the other party.
- (3) If the Board secretary and the defendant or his legal representative fail to agree on the facts under subsection (2) or the Board considers that the agreed facts do not support the charge, the Board shall proceed to conduct the inquiry as provided in section 16.
- (4) If the Board accepts the agreed facts and the defendant's admission to the charge, it may proceed to decide whether or not to postpone its determination under section 17; and where the Board decides not to postpone determination, the Board chairman shall announce the determination of the Board in the manner set out in section 17(3).

16. Order of procedures

- (1) Subject to subsection (2) and sections 13, 14 and 15, the following order of proceedings must be observed at an inquiry –
 - (a) the Board secretary or his legal representative shall present his case against the defendant and adduce evidence in support of it and shall close his case against the defendant;
 - (b) after the case of the Board secretary has been closed, the other party may make either or both of the following submissions in relation to any charge in respect of which evidence has been adduced –
 - (i) that the evidence adduced is not sufficient for the Board to find that the facts alleged in that charge have been proved;
 - (ii) that the facts alleged in the charge are not such as to constitute the charge, and where such submission is made, the Board secretary or his legal representative may

make a reply to it, and the other party may answer such reply;

- (c) if a submission is made under paragraph (b), the Board shall consider and determine whether the submission shall be upheld, if the Board –
 - (i) upholds the submission in respect of any charge, the Board shall record a finding that the charge is not proved and the Board chairman shall announce the determination of the Board; or
 - (ii) rejects the submission, the Board chairman shall announce the determination of the Board and shall call upon the defendant to state his case;
- (d) the defendant or his legal representative may then adduce evidence in support of the defendant's case and may make one and only one address to the Board, and where evidence has been adduced by or on behalf of the defendant the address may be made either before or after the evidence has been adduced;
- (e) at the conclusion of the defendant's case, the Board secretary or his legal representative may address the Board in reply, and if the Board secretary or his legal representative makes such reply, the other party may make one and only one address to the Board in reply to such address.

(2) At the request of the complainant or his legal representative, the Board may permit the complainant or his legal representative to present the case against the defendant if the Board thinks it appropriate in the circumstances of the case and in that event, a reference to the Board secretary in subsection (1) is to be read as a reference to the complainant.

17. Postponement of determination

(1) At the conclusion of the proceedings held in accordance with section 16, the Board shall consider and decide whether to postpone determination on any charge.

(2) If the Board decides to postpone its determination, the determination of the Board shall stand postponed until such future meeting of the Board as the Board may decide, and the Board chairman shall announce the decision of the Board in such terms as the Board may approve.

(3) If the Board decides not to postpone determination, the Board chairman shall announce the determination of the Board in such terms as the Board may approve.

18. Notice of determination

(1) When, under section 17(2), the determination of the Board in respect of a charge stands postponed to a future meeting of the Board, the Board secretary shall serve on the defendant a notice specifying the date, time and place decided for the meeting of the Board and inviting him to appear at the meeting.

- (2) The Board secretary shall send the complainant a copy of the notice served under subsection (1).
- (3) At the adjourned meeting the Board chairman may invite the Board secretary to recall, for the information of the Board, the position in which the determination in respect of any charge was postponed and the Board may hear the other party to the proceedings for this purpose.
- (4) The Board shall then consider and make its determination and the Board chairman shall announce the determination of the Board in such terms as the Board may approve.

19. Postponement of making a disciplinary order

- (1) After the announcement of the determination of the Board in respect of the charge, if the determination is that any of the charges is proved, the Board shall consider and decide whether or not to postpone the consideration of removing from the list maintained by it the name of the defendant.
- (2) If the Board decides to postpone the consideration under subsection (1), the consideration shall stand postponed until such future meeting of the Board as the Board may decide, and the Board chairman shall announce the decision of the Board in such terms as the Board may approve.

20. Address before making a disciplinary order

- (1) Before the Board decides whether to remove from the list maintained by it the name of the defendant, the Board chairman shall ask the defendant whether he wishes to address the Board, and the defendant or his legal representative may address the Board; and he may adduce evidence as to the circumstances leading to the charge, as to the character and antecedents of the defendant.
- (2) The Board shall then consider and decide whether to remove from the list maintained by it the name of the defendant and the chairman shall announce the decision of the Board in such terms as the Board may approve.

21. Notice of postponement of disciplinary order

- (1) Where, in accordance with section 19, the decision of the Board (in regard to removing the name of the defendant from the list maintained by the Board) stands postponed to a future meeting of the Board, the Board secretary shall serve on the defendant a notice specifying the date, time and place decided for the meeting of the Board and inviting him to appear at the meeting.
- (2) The Board secretary shall send the complainant a copy of the notice served under subsection (1).

22. Evidence

- (1) The rules of evidence do not apply to the proceedings of an inquiry.
- (2) Evidence may be taken by the Board by oral statement on oath or by written deposition or statement and the Board chairman may administer an oath for this purpose.
- (3) Every witness shall be examined by the party calling him and may then be cross-examined by the other party and only upon matters arising out of the cross-examination may be re-examined by the party calling him.
- (4) The Board may decline to admit the evidence of any deponent to a document who is not present for, or who declines to submit to, cross-examination.
- (5) The Board chairman and any member of the Board at an inquiry may put such questions to the parties or to any witness as he thinks desirable.
- (6) The Board may at the hearing of an inquiry admit or take into account any statement, document, information or matter whether or not it would be admissible in a court of law.

23. Deliberation of the Board

- (1) In the taking of the votes of the Board on any matter to be decided by it, the Board chairman shall call upon the members to signify their votes and shall thereupon declare the decision of the Board in respect of such matter.
- (2) Where the decision of the Board so declared by the Board chairman is challenged by any member of the Board, the Board chairman shall call upon each member severally to declare his vote, declare his own vote and announce the number of members of the Board who have voted each way, and the result of the vote.
- (3) No person other than members of the Board and the legal adviser to the Board may be present when the Board votes on any matter.

PART IV MISCELLANEOUS

24. Proof of service of documents

Service of a notice or other communication on any person under this set of procedures may be proved by means of a sworn statement made by the Board secretary or the person responsible for effecting the service.