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## No. S 226

# TRADITIONAL CHINESE MEDICINE PRACTITIONERS ACT (CHAPTER 333A)

## TRADITIONAL CHINESE MEDICINE PRACTITIONERS (DISCIPLINARY PROCEEDINGS) REGULATIONS 2020

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In exercise of the powers conferred by section 36(1) of the Traditional Chinese Medicine Practitioners Act, the Traditional

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Chinese Medicine Practitioners Board, with the approval of the Minister for Health, makes the following Regulations:

### **Citation and commencement**

1. These Regulations are the Traditional Chinese Medicine Practitioners (Disciplinary Proceedings) Regulations 2020 and come into operation on 1 April 2020.

### **Definitions**

2. In these Regulations —

“advocate and solicitor” has the meaning given by section 2(1) of the Legal Profession Act 1966;

*[S 637/2023 wef 31/12/2021]*

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

“disciplinary offence” means an act or omission in respect of which a registered person may be subject to disciplinary proceedings under any of the grounds in section 19(1) of the Act;

“hearing” means a hearing before the Inquiry Committee under section 26E(4)(b) of the Act;

“Inquiry Committee” means an Inquiry Committee appointed under section 26I(1) of the Act.

### **Complaints against or information about registered persons**

3.—(1) For purposes of section 26B(2)(b) of the Act, a statutory declaration must state the following:

- (a) the name, address and occupation of the person making the complaint against, or providing information about, any registered person;
- (b) the grounds of the complaint or information;
- (c) the evidence supporting the complaint or information.

(2) Where a complaint is made or information is given by a member of the Board, that member is disqualified from taking part in any

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deliberation of the Board relating to the member's complaint or information and from being appointed as a member of an Inquiry Committee conducting an inquiry into the member's complaint or information.

### **Review of complaints and information**

4.—(1) If, under section 26C(2) of the Act, the Board requires a registered person to answer any inquiry or provide any record that the Board considers relevant for the purpose of its review, the Registrar, at the Board's direction, must serve on the registered person a copy of the complaint or information and any statutory declaration provided under section 26B(2)(b) of the Act.

(2) Where a 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, in the course of its review under section 26C of the Act, have regard to the record of the proceedings in court relating to that offence.

### **Appointment of appointed person**

5.—(1) The Board may appoint an advocate and solicitor or a public officer as an appointed person to assist an Inquiry Committee in conducting an inquiry.

(2) An advocate and solicitor appointed under paragraph (1) may be paid the fees that the Board approves.

### **Appointment and composition of Inquiry Committees**

6. Any Inquiry Committee appointed by the Board under section 26I(1) of the Act must comprise at least 3 members, of which —

- (a) 2 members must be registered persons with at least 10 years' experience in any prescribed practice of traditional Chinese medicine; and
- (b) one member must be —
  - (i) where a complaint against, or information about, a registered person relates to a matter in

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section 19(1)(a) to (k) of the Act — a person other than a registered person; or

*[S 637/2023 wef 31/12/2021]*

- (ii) where a complaint against, or information about, a registered person relates to a matter in section 19(1)(l) of the Act — a registered medical practitioner under the Medical Registration Act 1997.

*[S 637/2023 wef 31/12/2021]*

### **Notice of hearing**

7.—(1) A notice under section 26F(1) of the Act must, in addition to the matters specified in section 26F(2) —

- (a) state the date, time and place at which the hearing will be held; and
- (b) be accompanied by a copy of the report of any expert witness (if available) whom the appointed person intends to call at the hearing.

(2) The hearing must be held no earlier than 28 days after the date of the notice, except with the agreement of the registered person.

### **Postponement or adjournment of hearing**

8.—(1) An Inquiry Committee may, of its own motion or upon the application of any party, postpone the commencement of the hearing or adjourn any proceedings at any time.

(2) An application for postponement of the commencement of the hearing must be —

- (a) made to the Inquiry Committee;
- (b) copied to the Registrar at least 21 days before the date fixed for the commencement of the hearing, or any shorter period that the Inquiry Committee may allow; and
- (c) supported by valid reasons.

(3) The Inquiry Committee must record in writing the reason for any adjournment of the hearing.

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(4) An adjournment may not be given for more than 14 days except with the permission of the Chairman of the Board.

### **Supply of documents**

9.—(1) If a registered person wishes to raise any defence at the hearing, the registered person or his or her counsel must, at least 10 days before the date fixed for the commencement of the hearing, send to the Inquiry Committee and the appointed person —

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

(2) The appointed person must, 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 or her counsel must, as far as possible, prepare an agreed statement of facts, an agreed bundle of documents or exhibits to be used at the hearing, and their lists of witnesses to be called at the hearing.

(4) The appointed person must, at least 5 days before the date of commencement of the hearing, send the following (if available) to the executive secretary of the Board and to the registered person or his or her 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 hearing;
- (d) the lists of witnesses whom the parties intend to call at the hearing;
- (e) copies of any other documents which are to be used at the hearing.

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(5) The appointed person may give notice to the registered person or his or her counsel —

- (a) to send to the appointed person copies of any document in the possession of the registered person or his or her counsel which are relevant to the matter before the hearing; or
- (b) to produce before the Inquiry Committee any document mentioned in sub-paragraph (a),

and the registered person or his or her counsel must comply with that notice.

### **Subpoena**

**10.** A subpoena issued under section 36(2)(f) of the Act must be in accordance with Form 67 set out in Appendix A to the Rules of Court (Cap. 322, R 5), with any variations that the circumstances require.

*[S 637/2023 wef 31/12/2021]*

### **Evidence at hearing**

**11.** A person attending the hearing must give evidence under oath or affirmation.

### **Conduct of hearing**

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

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

(3) If the registered person does not appear at the hearing, the Inquiry Committee may proceed with the hearing after satisfying itself that a notice that complies with regulation 7 was served on the registered person in accordance with the Act.

(4) A hearing by the Inquiry Committee under these Regulations is to be held in private.

(5) The Inquiry Committee is to adopt the following procedure for holding its hearing but may, in any particular case, make any variations or modifications that it thinks fit:

- (a) the complaint is first to be read out to the registered person;

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- (b) the registered person or his or her counsel may object to the complaint on a point of law, and if any such objection is upheld, no further proceedings may be taken by the Inquiry Committee on the complaint to which the objection relates;
  - (c) the appointed person presents the facts on which the complaint is based, and adduces evidence of facts alleged in the complaint and expert evidence, if any;
  - (d) the registered person or his or her counsel may adduce evidence on the registered person's behalf to substantiate his or her defence;
  - (e) the appointed person and the registered person or his or her 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 or her case, the registered person or his or her counsel may address the Inquiry Committee;
  - (g) the appointed person may make his or her closing address.

(6) The Inquiry Committee is not bound to act in a formal manner and is not bound by the Evidence Act 1893 or by any other written law or rule of law relating to evidence, but may inform itself on any matter in the manner it thinks fit.

*[S 637/2023 wef 31/12/2021]*

(7) The Inquiry Committee may conduct proceedings under these Regulations despite the absence of one of its members and the validity of the proceedings may not be challenged on this ground.

(8) The acts of the Inquiry Committee are valid despite any defect that may subsequently be discovered in the appointment or qualification of any of its members.

(9) If the Inquiry Committee is satisfied that the registered person or his or her counsel is hampering or attempting to hamper the progress of the hearing, the Inquiry Committee may administer a warning to the registered person and, where appropriate, his or her counsel.

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(10) If the Inquiry Committee is satisfied that a warning administered under paragraph (9) is being disregarded, the Inquiry Committee must make a record to that effect and may proceed to complete the hearing in the manner it thinks fit.

### **Joining of similar disciplinary offences and hearing for more than one disciplinary offence**

**13.—**(1) When a registered person is alleged to have committed 2 or more disciplinary offences, a single hearing into any number of those disciplinary offences may be held if the disciplinary offences form or are a part of a series of disciplinary offences of the same or a similar character.

(2) If, in one series of acts or omissions so connected as to form the same transaction, 2 or more disciplinary offences are committed by the same registered person, a single hearing into each of those disciplinary offences may be held.

### **Hearings against 2 or more registered persons**

**14.** A joint hearing or separate hearings may be held against —

- (a) 2 or more registered persons alleged to have committed the same disciplinary offence in the same transaction;
- (b) 2 or more registered persons alleged to have committed different disciplinary offences in the same transaction;
- (c) 2 or more registered persons alleged to have committed 2 or more disciplinary offences which form or are a part of a series of disciplinary offences of the same or a similar character;
- (d) 2 or more registered persons alleged to have committed 2 or more disciplinary offences, if all of those offences arise from the same series of acts or omissions, whether or not they form the same transaction; or
- (e) one or more registered persons alleged to have committed a disciplinary offence and one or more registered persons alleged to have abetted or attempted to commit that disciplinary offence.



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**Single or joint hearings with consent**

**15.**—(1) Despite regulations 13 and 14, an Inquiry Committee may inquire into 2 or more disciplinary offences together at a single hearing or order a joint hearing, if —

- (a) in a case where a registered person is charged with 2 or more disciplinary offences, the Board and the registered person consent to have all those disciplinary offences dealt with at the same hearing; or
- (b) in a case where 2 or more registered persons are charged with separate disciplinary offences, the Board and all those registered persons consent to a joint hearing.

(2) Despite paragraph (1), the Board must not hold a single or joint hearing in relation to a registered person who had earlier given consent under that paragraph, if —

- (a) at the time when the consent was given, the registered person was not represented by counsel; and
- (b) at the time of the hearing, that registered person objects to the Inquiry Committee holding the single or joint hearing.

**Separate hearing where registered person is prejudiced**

**16.** Despite any other provision in these Regulations, an Inquiry Committee may order, before or at any stage of a hearing in relation to a registered person, that a separate hearing be held into one or more disciplinary offences alleged to have been committed by the registered person, if the Inquiry Committee is of the view that the registered person may be prejudiced in his or her defence because —

- (a) a single hearing is being held into more than one disciplinary offence under regulation 13 or 15(1)(a); or
- (b) a joint hearing is being held under regulation 14 or 15(1)(b) against the registered person together with one or more other registered persons.

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**Record of inquiry**

17.—(1) The record of the inquiry comprises the following:

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

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

(3) Despite the information obtained at the hearing being in the form of a narrative, the Inquiry Committee may record any particular question and answer.

**Decision of Board**

18.—(1) Where the Board makes a decision under section 26G(2) of the Act, the Registrar must notify the following persons about that decision:

- (a) the registered person;
- (b) the person who made the complaint against, or provided information about, the registered person.

(2) If the Board refers the complaint or information back to the Inquiry Committee for reconsideration or a further report under section 26G(2)(c) of the Act, the Board must give the registered person at least 14 days' notice of any further hearing of the Inquiry Committee.

(3) 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 or her degree or qualification of its decision.

(4) The Board may publish an account of the inquiry by the Inquiry Committee, its findings and its decision.

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**Transcript of notes of hearing, etc.**

19. Upon the application of any interested person and payment of the fee specified in the Schedule, the Board may provide to that person a copy of the transcript of the notes of the hearing or of any statement, report or document tendered at the hearing.

**Revocation**

20. The Traditional Chinese Medicine Practitioners (Investigation of Complaints) Regulations (Rg 4) are revoked.

THE SCHEDULE

Regulation 19

FEES

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| 1. Copy of transcript of notes of hearing —  |   |
| (a) where the notes of hearing are in the form of transcription done by a private party engaged by the Board | Cost of transcription and 10% of the cost |
| (b) in any other case  | \$10 per page                             |
| 2. Copy of statement, report or document tendered at hearing   | \$0.50 per page                           |

Made on 31 March 2020.

YU-FOO YEE SHOON  
*Chairman,  
 Traditional Chinese Medicine  
 Practitioners Board,  
 Singapore.*

[MH 78:50/1; AG/LEGIS/SL/333A/2015/6 Vol. 1]