

Traditional Chinese Medicine Practitioners (Amendment) Bill

Bill No. /2018.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Traditional Chinese Medicine Practitioners Act
(Chapter 333A of the 2001 Revised Edition).

Be it enacted by the President with the advice and consent of the
Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Traditional Chinese Medicine Practitioners (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 **Amendment of section 2**

2. Section 2 of the Traditional Chinese Medicine Practitioners Act (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “Chairman”, the following definitions:

10 ““Complaints Review Committee” means a committee appointed under section 26B(1);

“Health Committee” means a committee appointed under section 26J(1);” and

15 (b) by inserting, immediately after the definition of “institution of higher learning”, the following definitions:

““Interim Orders Committee” means a committee appointed under section 26L(1);

“Investigation Committee” means a committee appointed under section 26H(1);

20 “investigator” means a person appointed under section 28;”.

Amendment of section 17

3. Section 17 of the principal Act is amended by inserting, immediately after subsection (5), the following subsection:

25 “(5A) The Board may —

(a) refuse to grant a practising certificate to a registered person; or

(b) refuse to renew the practising certificate of a registered person,

if the registered person fails to comply with any condition that is prescribed for the purposes of this section.”.

Repeal and re-enactment of section 18

5 **4.** Section 18 of the principal Act is repealed and the following section substituted therefor:

“List of registered traditional Chinese medicine practitioners with practising certificates

10 **18.** The Registrar must publish on the Board’s website, or on such other medium which is accessible to members of the public as the Minister may require, a list of the names, practice addresses, qualifications and dates of qualifications and registration of all registered persons who have in force a practising certificate.”.

Amendment of section 19

15 **5.** Section 19 of the principal Act is amended —

- (a) by deleting the word “disability” in subsection (1)(k) and substituting the word “condition”;
- (b) by deleting the words “to (k)” in subsection (2) and substituting the words “to (j)”;
- 20 (c) by inserting, immediately after paragraph (a) of subsection (2), the following paragraph:
 - 25 “(aa) order that the registered person give an undertaking, on such terms as the Board thinks fit, to abstain in future from the conduct complained of;”;
- (d) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:
 - 30 “(b) impose on the registered person —
 - (i) where the registered person’s liability to have his registration cancelled arose in respect of any act or omission by the

registered person that occurred before the date of commencement of [section 5(*d*) of the Traditional Chinese Medicine Practitioners (Amendment) Act 2018], a penalty not exceeding \$10,000; or

(ii) in any other case, a penalty not exceeding \$50,000;”;

(*e*) by deleting paragraph (*b*) of subsection (3) and substituting the following paragraph:

“(*b*) consider —

(i) where applicable, the findings and recommendation of the Complaints Review Committee reported to the Board under section 26D(1)(*b*); and

(ii) where the complaint or matter against the registered person has been referred by the Board to an Investigation Committee under section 26H, the findings and recommendation of the Investigation Committee.”; and

(*f*) by deleting subsection (5) and substituting the following subsections:

“(5) Subject to subsection (5A) and section 21(3), a decision made by the Board under subsection (1) or (2) does not take effect until the 31st day after the date of the decision.

(5A) The Board’s decision —

(*a*) to cancel the registration of a registered person under subsection (1); or

(*b*) to suspend the registration of a registered person under subsection (2)(*d*),

takes immediate effect if the Board certifies that the immediate cancellation or suspension (as the case may be)

of the registration is necessary for the protection of the public or is in the best interests of the registered person.

(5B) Where a certification under subsection (5A) is made —

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- (a) the Registrar must immediately serve a notice of the Board’s decision on the registered person; and
 - (b) the decision takes effect on the date of the Board’s certification.”.

Amendment of section 20

10 **6.** Section 20 of the principal Act is amended —

- (a) by inserting, immediately after the words “section 19(2)” in subsection (1), the words “, 26K(2), 26M(3) or 26O(3)”;
- (b) by inserting, immediately after subsection (3), the following subsection:

15 “(4) The costs and expenses mentioned in subsection (1) include —

- (a) the costs and expenses of any assessor and advocate and solicitor appointed by the Board for proceedings before the Investigation Committee, Health Committee or Interim Orders Committee (as the case may be);
 - (b) such reasonable expenses as the Board may pay to witnesses; and
 - (c) such reasonable expenses as are necessary for the conduct of proceedings before the Investigation Committee, Health Committee or Interim Orders Committee (as the case may be).”.
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Amendment of section 21

7. Section 21 of the principal Act is amended —

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- (a) by inserting, immediately after the words “section 19(1) or (2)” in subsection (1), the words “, 26G(4) or 26K(2)”;

(b) by inserting, immediately after subsection (2), the following subsection:

- 5 “(3) Despite section 19, where a person appeals to the High Court against a decision of the Board mentioned in subsection (1), the decision does not take effect unless —
- (a) the decision is confirmed by the High Court; or
- (b) the appeal is for any reason dismissed by the High Court or is withdrawn.”.

New Part IVA

10 **8.** The principal Act is amended by inserting, immediately after section 26, the following Part:

“PART IVA

DISCIPLINARY PROCEEDINGS AND HEALTH COMMITTEE INQUIRIES

15 *Division 1 — Voluntary removal, suspension, etc.*

Voluntary removal, suspension, etc.

26A.—(1) A registered person who believes that —

- 20 (a) the registered person’s fitness to practise the prescribed practice of traditional Chinese medicine that the person is registered to carry out is impaired by reason of the person’s physical or mental condition; or
- 25 (b) the quality of the professional services provided by the registered person does not meet the standard which is reasonable to expect of a traditional Chinese medicine practitioner carrying out the prescribed practice of traditional Chinese medicine that the person is registered to carry out,

may request the Board to take one or more of the actions in subsection (2).

30 (2) For the purposes of subsection (1), the actions are —

- (a) cancelling the registration of the registered person;
- (b) suspending the registration of the registered person for a period of not more than 3 years;
- (c) where the registered person has been granted full registration to carry out a prescribed practice of traditional Chinese medicine —
 - (i) cancelling the registered person's full registration and registering the person instead as a registered person with conditional registration to carry out the same prescribed practice of traditional Chinese medicine; and
 - (ii) imposing such conditions or restrictions on the registered person's conditional registration as the Board thinks fit;
- (d) where the registered person has been granted conditional registration to carry out a prescribed practice of traditional Chinese medicine, imposing such conditions or restrictions on the registered person's conditional registration as the Board thinks fit; and
- (e) suspending or cancelling the registered person's practising certificate.

(3) Subject to this section, if the Board and the registered person agree in writing on the action to be taken under subsection (2), the Board may proceed with the agreed course of action.

(4) For the purposes of subsection (3), the Board and the registered person may agree to take any action under subsection (2) other than the action or actions mentioned in the registered person's request under subsection (1).

(5) The Board must not take any action under this section in relation to a registered person if —

- (a) the Board believes that there is evidence of any matter mentioned in section 19(1)(g), (h), (i) or (j); or

(b) proceedings under Division 2 of this Part have commenced against the registered person.

(6) If the Board and the registered person are unable to agree on the action to be taken under subsection (2), the Board must —

- 5 (a) if the registered person's request is made under subsection (1)(a), refer the matter to a Health Committee; or
- (b) if the registered person's request is made under subsection (1)(b), refer the matter to a Complaints Review Committee.
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(7) This section also applies where the Board has made a notification to the registered person under section 26C(6)(b).

Division 2 — Complaints and commencement of inquiry

Appointment of Complaints Review Committee

15 **26B.**—(1) The Board may appoint one or more Complaints Review Committees to inquire into any complaint or information mentioned in section 26C(1).

(2) The Board may —

- 20 (a) revoke the appointment of a Complaints Review Committee; or
- (b) remove any member of a Complaints Review Committee and appoint another individual in place of that member,

25 if the Board is satisfied that any of the grounds in subsection (3) is made out against the Complaints Review Committee or the member (as the case may be).

(3) For the purposes of subsection (2), the grounds are —

- 30 (a) in relation to a Complaints Review Committee, that more than half of its members are unable to carry out their duties properly and effectively because of any conflict of interest or potential conflict of interest on the part of each member concerned; and

(b) in relation to a member of a Complaints Review Committee, that the member is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest.

5 (4) The Board may at any time fill any vacancy in a Complaints Review Committee.

(5) A member of a Complaints Review Committee who is appointed as an officer of the Ministry of Health is not disqualified from being a member of the Complaints Review Committee by reason only that the person is so appointed.

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Complaints against registered persons

26C.—(1) Any complaint against or information on a registered person touching on any matter specified in section 19(1) (other than paragraph (d) of section 19(1)) must be made or furnished to the Board in writing.

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(2) Subject to subsection (3), where a complaint or any information relates to a matter specified in section 19(1)(e), (f), (i), (j) or (k), the complaint or information must be supported by a statutory declaration.

20 (3) A statutory declaration is not required if the complaint or information mentioned in subsection (2) is made or referred by any public officer or the Board.

(4) The Board must refer every complaint or information touching on a matter specified in section 19(1)(e), (f), (i) or (j) to a Complaints Review Committee.

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(5) Where the Board is satisfied, based on any evidence given in support of any complaint or information touching on the matter specified in section 19(1)(k), that a formal inquiry is necessary to determine the physical or mental fitness of the registered person to practise, the Board must refer the complaint or information to a Health Committee.

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(6) The Board may, on its own motion —

- (a) make a complaint against or refer any information on a registered person to the Complaints Review Committee if the Board is of the opinion that there is evidence of any matter specified in section 19(1)(e), (f), (i) or (j); or
- 5 (b) notify the registered person and proceed under section 26A(2) if —
- (i) the Board is of the opinion that there is evidence of the matter specified in section 19(1)(k), or that the professional services provided by the registered person are not of the quality which is reasonable to expect of the registered person; and
- 10 (ii) the registered person agrees to the course of action under section 26A(2) in writing.
- (7) The Board must immediately refer any complaint or information touching on a matter specified in section 19(1)(g) or (h) to an Investigation Committee.
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Commencement of inquiry by Complaints Review Committee

- 26D.**—(1) A Complaints Review Committee must —
- 20 (a) within 2 weeks after its appointment, commence its inquiry into any complaint or information; and
- (b) subject to subsection (2), complete its inquiry no later than 3 months starting on the date the complaint or information is referred to the Complaints Review Committee, and report its findings and recommendation to the Board.
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- (2) Where a Complaints Review Committee is of the opinion that it will not be able to complete its inquiry within the period specified in subsection (1)(b) due to the complexity of the matter or any serious difficulty the Complaints Review Committee encountered in conducting its inquiry —
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- (a) the Complaints Review Committee may apply in writing to the Chairman for an extension of time to complete its inquiry; and
- (b) the Chairman may grant such extension of time to the Complaints Review Committee as the Chairman thinks fit.
- (3) For the purposes of any inquiry —
- (a) a Complaints Review Committee may appoint one or more investigators under section 28 to investigate the complaint or information; and
- (b) the investigator appointed under paragraph (a) may exercise any of the powers under section 29 in carrying out the investigator's functions and duties under this Part.
- (4) A Complaints Review Committee —
- (a) if it is unanimously of the opinion that the complaint or information is frivolous, vexatious, misconceived or lacking in substance — may recommend that the Board dismiss the matter;
- (b) if it is unanimously of the opinion that no investigation is necessary — may recommend that the Board issue a letter of advice to the registered person; or
- (c) in any other case — must direct one or more investigators to carry out an investigation and make a report to it under section 26F.

Conduct of investigation

- 26E.**—(1) An investigator directed under section 26D(4)(c) to investigate any complaint against or information on a registered person must give notice in writing of the complaint or information to that registered person.
- (2) A notice under subsection (1) must —

(a) include copies of any complaint or information, and of any statutory declaration that has been made in support of the complaint or information; and

5 (b) invite the registered person, within the period specified in the notice (which must not be less than 21 days starting on the date of the notice), to give to the investigator any written explanation the registered person wishes to provide.

10 (3) Where, in the course of an investigation in respect of a registered person, an investigator receives any information touching on, or obtains any evidence of, the conduct, physical or mental fitness or professional performance —

15 (a) of the registered person concerned, which is outside the subject matter of the complaint or information referred to the investigator; or

(b) of another registered person,

20 which may give rise to proceedings under this Part, the investigator must make a report of this to the Complaints Review Committee that directed the investigator to carry out the investigation under section 26D(4)(c).

(4) On receiving a report under subsection (3), the Complaints Review Committee —

25 (a) if it is unanimously of the opinion that the complaint or information is frivolous, vexatious, misconceived or lacking in substance — may recommend that the Board dismiss the matter; or

(b) if it is of the opinion that there is evidence of any matter mentioned in section 19(1) —

30 (i) direct one or more investigators to carry out an investigation and make a report to it under section 26F; or

(ii) refer the matter to the Board, and the Board must act in accordance with section 26C by referring the matter to a different Complaints Review

Committee or a Health Committee (as the case may be).

Division 3 — Powers after investigation

Investigation report and deliberation by Complaints Review Committee

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26F.—(1) An investigator mentioned in section 26D(4)(c) must, upon completing an investigation into any complaint against or information on a registered person, submit a report on the findings of the investigation to the Complaints Review Committee that directed the investigator to carry out the investigation for its deliberation.

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(2) The report mentioned in subsection (1) must include any written explanation given by the registered person after receiving a notice under section 26E(1).

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(3) A person must not disclose the contents of the investigation report mentioned in subsection (1), or any information contained in any document which was obtained in the course of any investigation or inquiry under this Part, to any other person, including the registered person, except where —

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(a) such disclosure is required for the purpose of administering and enforcing this Act or the Infectious Diseases Act (Cap. 137); or

(b) the Complaints Review Committee in its discretion considers such disclosure to be in the public interest.

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(4) The Complaints Review Committee mentioned in subsection (1) may, in the course of its deliberations and before it makes any recommendation to the Board, seek such legal advice as it thinks necessary.

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(5) The registered person does not have the right to be heard by the Complaints Review Committee mentioned in subsection (1), whether in person or represented by counsel, unless the Complaints Review Committee in its discretion otherwise allows.

Findings of Complaints Review Committee

5 **26G.**—(1) A Complaints Review Committee must, after it has deliberated on the investigation report mentioned in section 26F(1), prepare and submit to the Board a report comprising —

- (a) the findings of the Complaints Review Committee; and
- (b) the recommendation of the Complaints Review Committee under subsection (2) or (3).

10 (2) Where a Complaints Review Committee is of the view that no inquiry by an Investigation Committee or a Health Committee is necessary, the Complaints Review Committee may recommend that the Board —

- (a) issue a letter of advice to the registered person;
- (b) issue a letter of warning to the registered person;
- 15 (c) by agreement with the registered person —
 - (i) cancel the registration of the registered person;
 - (ii) suspend the registration of the registered person for a period of not more than 3 years;
 - 20 (iii) where the registered person has been granted full registration to carry out a prescribed practice of traditional Chinese medicine —
 - (A) cancel the registered person's full registration and register the person instead as a registered person with conditional registration to carry out the same prescribed practice of traditional Chinese medicine; and
 - 25 (B) impose such conditions or restrictions on the registered person's conditional registration as the Board thinks fit;
 - 30 (iv) where the registered person has been granted conditional registration to carry out a prescribed practice of traditional Chinese medicine, impose

such conditions or restrictions on the registered person's conditional registration as the Board thinks fit; or

(v) suspend or cancel the registered person's practising certificate; or

(d) dismiss the complaint or matter.

(3) Where a Complaints Review Committee determines that an inquiry by an Investigation Committee or a Health Committee is necessary, the Complaints Review Committee must recommend to the Board —

(a) where the complaint, information or evidence touches on the physical or mental fitness of the registered person to practise, that an inquiry be conducted by a Health Committee; or

(b) in any other case, that an inquiry be conducted by an Investigation Committee.

(4) Subject to subsection (5), the Board may, after deliberating on the report of the Complaints Review Committee —

(a) accept the recommendation of the Complaints Review Committee and make an order in accordance with the recommendation; or

(b) make such other order as the Board thinks fit.

(5) Where the Board accepts the recommendation made by the Complaints Review Committee mentioned in subsection (3), the Board must appoint a Health Committee or an Investigation Committee, as the case may be, to hear and investigate the complaint or matter.

(6) Where the Board decides to issue a letter of advice to a registered person, the letter of advice must be issued in such terms as the Board thinks fit.

(7) Where, in the course of an inquiry by a Complaints Review Committee, the Complaints Review Committee receives information touching on, or evidence of, the conduct of the

registered person concerned which discloses an offence under any written law, the Complaints Review Committee must record the information and report it to the Board.

5 (8) Where a person who made a complaint under section 26C withdraws the complaint before —

- (a) the complaint is referred to a Complaints Review Committee or Health Committee or an Investigation Committee (as the case may be); or
- 10 (b) the Board makes an order following the conclusion of an inquiry by a Complaints Review Committee or Health Committee or an Investigation Committee (as the case may be),

15 the Board may, despite the withdrawal, refer the complaint to or direct a Complaints Review Committee or Health Committee or an Investigation Committee (as the case may be) to continue the inquiry, and the Complaints Review Committee, Health Committee or Investigation Committee (as the case may be) must comply with the Board's direction as if the complaint had been made by the Board.

20 *Division 4 — Investigation Committees*

Investigation Committee

26H.—(1) The Board may, from time to time, appoint one or more Investigation Committees to inquire into any complaint or matter referred to the Investigation Committee under this Act.

25 (2) The following persons must not be a member of an Investigation Committee inquiring into a complaint or matter concerning a registered person:

- (a) a member of a Complaints Review Committee that inquired into the same complaint or matter;
- 30 (b) an investigator directed by a Complaints Review Committee to carry out an investigation into the same complaint or matter.

(3) A member of the Board who is a member of an Investigation Committee inquiring into any complaint or matter concerning a registered person —

5 (a) must not take part in any deliberation of the Board under section 19 in respect of the same complaint or matter; and

 (b) must be disregarded for the purpose of constituting a quorum of the Board for any deliberation mentioned in paragraph (a).

10 (4) An Investigation Committee may be appointed in connection with one or more complaints or matters or for a fixed period as the Board thinks fit.

(5) The Board may —

15 (a) revoke the appointment of an Investigation Committee; or

 (b) remove any member of an Investigation Committee and appoint another individual in place of that member,

20 if the Board is satisfied that any of the grounds in subsection (6) is made out against the Investigation Committee or the member (as the case may be).

(6) For the purposes of subsection (5), the grounds are —

25 (a) in relation to an Investigation Committee, that more than half of its members are unable to carry out their duties properly and effectively because of any conflict of interest or potential conflict of interest on the part of each member concerned; and

30 (b) in relation to a member of an Investigation Committee, that the member is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest.

(7) The Board may at any time fill any vacancy in an Investigation Committee.

(8) Without limiting subsections (5) and (7), where, after an Investigation Committee has commenced its inquiry into a matter, any member of the Investigation Committee is unable through death, illness or any other cause to continue with the inquiry, the Board may fill the vacancy or appoint another Investigation Committee to continue the inquiry.

(9) The Investigation Committee reconstituted or appointed under subsection (8) —

(a) may, with the consent of the Board and the registered person concerned who is represented by counsel, continue with the inquiry as if the Investigation Committee had not been reconstituted or appointed, and when so hearing the Investigation Committee is to have regard to the evidence given, the arguments adduced and orders made during the proceedings before the previous Investigation Committee; and

(b) must, in any other case, inquire into the matter afresh.

(10) The production of any written instrument purporting to be signed by the Board and making an appointment, revocation or removal referred to in this section is evidence that such appointment, revocation or removal has been duly made.

(11) An Investigation Committee must, within 6 months starting on the date a complaint or matter is referred to it under this Act or such further period as the Chairman may allow, complete its inquiry into the complaint or matter and report its findings and recommendation to the Board.

(12) A member of an Investigation Committee who is appointed as an officer of the Ministry of Health is not disqualified from being a member of the Investigation Committee by reason only that the person is so appointed.

Reference and transfer of cases to Health Committee

26I.—(1) Where, in the course of an inquiry by an Investigation Committee, it appears to the Investigation Committee that a registered person's fitness to practise the

prescribed practice of traditional Chinese medicine that the person is registered to carry out may be impaired by reason of the registered person's physical or mental condition —

5 (a) the Investigation Committee must cease its inquiry and refer the case back to the Board; and

(b) the Board must refer the case to a Health Committee for determination.

10 (2) If, on a reference under subsection (1)(b), the Health Committee determines that the fitness of the registered person to practise is not impaired by reason of the person's physical or mental condition —

(a) the Health Committee must certify its opinion to the Board; and

15 (b) the Board must direct the Investigation Committee to resume its inquiry in respect of the registered person concerned.

20 (3) If, on a reference under subsection (1)(b), the Health Committee determines that the fitness of the registered person to practise is impaired by reason of the person's physical or mental condition, the Health Committee must —

(a) certify its opinion to the Board; and

(b) proceed to dispose of the matter in accordance with section 26K.

Division 5 — Health Committees

25 **Health Committee**

26J.—(1) The Board may, from time to time, appoint one or more Health Committees to inquire into any case referred to the Health Committee under this Act.

30 (2) A Health Committee may be appointed in connection with one or more cases or for a fixed period of time as the Board thinks fit.

(3) The production of any written instrument purporting to be signed by the Board and making an appointment under this section is evidence that such appointment has been duly made.

Unfitness to practise through illness, etc.

5 **26K.**—(1) Where a Health Committee determines that a registered person's fitness to practise the prescribed practice of traditional Chinese medicine that the person is registered to carry out is impaired by reason of the person's physical or mental condition, the Health Committee may recommend that the Board —

- 10 (a) suspend the registration of the registered person for a period not exceeding 12 months;
- (b) where the registered person has been granted full registration to carry out the prescribed practice of traditional Chinese medicine —
- 15 (i) cancel the registered person's full registration and register the person instead as a registered person with conditional registration to carry out the same prescribed practice of traditional Chinese medicine; and
- 20 (ii) impose such conditions or restrictions on the registered person's conditional registration as the Board thinks fit;
- (c) where the registered person has been granted conditional registration to carry out the prescribed practice of traditional Chinese medicine, impose such conditions or restrictions on the registered person's conditional registration as the Board thinks fit; or
- 25 (d) cancel the registration of the registered person under section 19(1)(k).
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(2) The Board may, after deliberating on the recommendation of a Health Committee under this section —

(a) accept the recommendation of the Health Committee and make an order accordingly; or

(b) make such other order as the Board thinks fit.

5 (3) Where a Health Committee determines that a registered person, in respect of whom the Board made an order mentioned in subsection (1)(b) or (c), has failed to comply with any of the conditions or restrictions imposed on the registered person's registration, the Health Committee may, if it thinks fit, make a recommendation mentioned in subsection (1)(a) to the Board.

10 (4) Where the Board has made an order mentioned in subsection (1)(b) or (c), the Health Committee or another Health Committee appointed in its place may, on the application of the Board or the registered person, review the case of the registered person and recommend that the Board —

15 (a) revoke the order; or

(b) revoke or vary any of the conditions or restrictions imposed under the order.

20 (5) An application mentioned in subsection (4) in respect of the same registered person must not be made more than once in any period of 12 months.

Division 6 — Interim Orders Committees

Interim Orders Committee

25 **26L.**—(1) The Board may, from time to time, appoint one or more Interim Orders Committees to determine whether an order should be made in respect of a registered person under section 26M(3).

(2) An Interim Orders Committee may be appointed in connection with one or more cases or for a fixed period of time as the Board thinks fit.

30 (3) The Board may refer any matter concerning a registered person, including any complaint or information referred to the Board by a Complaints Review Committee or Health Committee or an Investigation Committee, to an Interim Orders Committee.

(4) The following persons must not be a member of an Interim Orders Committee inquiring into or reviewing a matter concerning a registered person:

- 5 (a) a member of a Complaints Review Committee or Health Committee or an Investigation Committee that inquired into the same matter;
- (b) an investigator directed by a Complaints Review Committee to carry out an investigation into the same matter.

10 (5) A member of an Interim Orders Committee inquiring into or reviewing any matter concerning a registered person —

- (a) must not be a member of a Complaints Review Committee or Health Committee or an Investigation Committee that inquired into the same matter; and
 - 15 (b) where the person is a member of the Board —
 - (i) must not take part in any deliberation of the Board under section 19 in respect of the same matter; and
 - (ii) must be disregarded for the purpose of constituting a quorum of the Board for any deliberation
- 20 mentioned in sub-paragraph (i).

(6) The production of any written instrument purporting to be signed by the Board and making an appointment under this section is evidence that such appointment has been duly made.

Interim orders

25 **26M.**—(1) An Interim Orders Committee may, after due inquiry into any matter referred to it under section 26L(3), recommend that the Board make any order mentioned in subsection (2) if it is satisfied that —

- 30 (a) it is necessary to do so for the protection of members of the public or is otherwise in the public interest; or
- (b) it is in the interests of the registered person concerned.

(2) For the purposes of subsection (1), the Interim Orders Committee may recommend that the Board —

- 5 (a) suspend the registration of the registered person for a period not exceeding 18 months (called in this Part an interim suspension order); or
- (b) require the registered person to comply, for a period not exceeding 18 months, with such conditions or restrictions as specified in the order as the Board thinks fit to impose (called in this Part an interim restriction order).

(3) The Board, after deliberating on the recommendation of an Interim Orders Committee under this section —

- 15 (a) may accept the recommendation of the Interim Orders Committee and make an interim suspension order or interim restriction order accordingly; or
- (b) may make an interim order on such other terms as the Board thinks fit.

(4) In this Part, “interim order” means an interim suspension order or interim restriction order, as the case may be.

20 **Review of interim orders**

26N.—(1) An interim order in respect of a registered person made under section 26M(3) must be reviewed by a review Committee in accordance with this section.

(2) Subject to subsection (3), the Board —

- 25 (a) must refer an interim order to the review Committee —
 - (i) for the first time no later than 6 months starting on the date on which the interim order was made; and
 - (ii) thereafter, for so long as the interim order continues in force, no later than 3 months starting on the date of the decision of the immediately preceding review; and

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5 (b) may refer the interim order to the review Committee where new evidence relevant to the interim order becomes available after the date of the interim order or the decision of the immediately preceding review, as the case may be.

(3) Where the High Court has extended the interim order under section 26Q(2), or the Board has made a replacement order mentioned in section 26O(2)(c) or (d), the first review after the extension or making of the replacement order must take place —

10 (a) if the interim order (or the interim order which has been replaced) had not been reviewed under subsection (2) — no later than 6 months starting on the date on which the High Court extended the interim order or on which the Board made the replacement order (as the case may be); or

15 (b) if the interim order had been reviewed under subsection (2) — no later than 3 months starting on the date on which the High Court extended the interim order or on which the Board made the replacement order (as the case may be).

(4) In this Part, “review Committee” means —

20 (a) the Interim Orders Committee that conducted an inquiry in respect of a registered person under section 26M(1); or

25 (b) another Interim Orders Committee appointed by the Board in place of the Interim Orders Committee mentioned in paragraph (a).

Revocation, variation or replacement of interim order

30 **26O.**—(1) Where the Board has referred an interim order to a review Committee in accordance with section 26N, the review Committee must act in accordance with this section.

(2) Where an interim order has been made under subsection (3) or section 26M(3) in respect of a registered person, the review Committee may, upon its review under this section or the

recommendation of a Complaints Review Committee, an Investigation Committee or a Health Committee, recommend that the Board —

- (a) revoke —
 - 5 (i) the interim order; or
 - (ii) any condition or restriction imposed under the interim order;
- (b) vary any condition or restriction imposed under the interim order;
- 10 (c) where an interim restriction order was made in respect of the registered person — replace the interim restriction order with an interim suspension order having effect for the remainder of the period of the interim restriction order, if the review Committee is
 - 15 (i) it is necessary to do so for the protection of members of the public or is otherwise in the public interest;
 - (ii) it is in the interests of the registered person
 - 20 concerned; or
 - (iii) the registered person concerned has not complied with any condition or restriction imposed under the interim restriction order; or
- 25 (d) where an interim suspension order was made in respect of the registered person — replace the interim suspension order with an interim restriction order having effect for the remainder of the period of the interim suspension order, if the review Committee is
 - 30 satisfied that the public interest or the interests of the registered person concerned would be more adequately served by an interim restriction order.

(3) The Board may, after deliberating on the recommendation of an Interim Orders Committee under subsection (2) —

(a) accept the recommendation of the Interim Orders Committee and make an order accordingly; or

(b) make any other order as the Board thinks fit.

5 (4) The Registrar must immediately serve a notification in writing of the order made under subsection (3) on the registered person, and the order is to take effect from the date the order is made.

Right of hearing

10 **26P.**—(1) An interim order under section 26M(3), or an order mentioned in section 26O(2)(b), (c) or (d), must not be made in respect of a registered person unless the registered person has been afforded an opportunity of appearing before the Interim Orders Committee and being heard on the question whether such an order should be made.

15 (2) For the purposes of subsection (1), the registered person may be represented before the Interim Orders Committee by counsel.

Application to High Court

20 **26Q.**—(1) The Board may apply to the High Court for an extension of the duration for which an order made under section 26M(3), or an order mentioned in section 26O(2)(c) or (d), has effect, and may apply again for further extensions.

25 (2) On an application under subsection (1), the High Court may extend (or further extend) the order for a period of not more than 12 months in each instance.

(3) The High Court may, on application by the registered person concerned —

(a) in the case of an interim suspension order, revoke the order;

30 (b) in the case of an interim restriction order, revoke the order or vary any condition or restriction imposed under the order; and

- (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it).

5 **Duration of interim orders**

26R.—(1) An interim order remains in force until the earlier of the following occurs:

- (a) the end of the period specified —
- (i) in the interim order; or
- 10 (ii) if the period is extended under section 26Q(2), in the order extending it;
- (b) the date on which the relevant proceedings are concluded.

(2) For the purposes of subsection (1)(b), the relevant

15 proceedings are concluded if the Board —

- (a) has made an order under section 26G(4), and no appeal under section 21(1) is made within the period specified in that provision or such an appeal is withdrawn;
- (b) has made an order under section 19(1) or (2) which has
- 20 taken effect;
- (c) has made an order under section 26K(2) which has taken effect; or
- (d) has dismissed the complaint or matter in respect of the registered person concerned.

25 **Person suspended under interim suspension order not regarded as registered**

26S.—(1) While a person's registration is suspended by virtue of an interim suspension order, the person is not to be regarded as being registered despite the person's name still appearing in

30 the Register.

(2) Upon the expiry or revocation of the interim suspension order, the person's rights and privileges as a registered person are revived with effect from the date of the expiry or revocation, provided that the person has complied with all the terms of the order.

(3) To avoid doubt, sections 26C to 26L continue to apply to a person whose registration is suspended by virtue of an interim suspension order.”.

Deletion and substitution of sections 28, 29 and 30 and new sections 30A and 30B

9. Sections 28, 29 and 30 of the principal Act are deleted and the following sections substituted therefor:

“Investigators

28. The Board may, in writing, appoint a member or an employee of the Board, a public officer or any other person as an investigator, subject to such conditions and limitations as the Board may specify —

- (a) to investigate an offence under this Act; or
- (b) to carry out an investigation under Part IVA.

Powers of entry, etc.

29.—(1) An investigator may, for any purpose mentioned in section 28, exercise all or any of the powers in this section.

(2) An investigator may —

- (a) require any person —
 - (i) to furnish any information within the person's knowledge;
 - (ii) to produce any book, document, record or electronic material which may be in the person's custody or possession and make copies of and take extracts from such book, document, record or electronic material, or to provide the investigator

with copies of or extracts from such book, document, record or electronic material; or

(iii) to produce any article or thing which may be in the person's custody or possession;

5 (b) examine orally any person supposed to be acquainted with the facts and circumstances of an offence or a suspected offence under this Act, or the subject matter of an investigation under section 26D(4)(c), and must —

10 (i) reduce to writing any statement given by the person so examined who is bound to state truly the facts and circumstances with which the person is acquainted;

15 (ii) read the statement over to the person so examined and

(iii) require the person so examined to sign the statement, after correction (if any); and

20 (c) require, by order in writing, the attendance before the investigator of any person, being within the limits of Singapore, who, from information given or otherwise, appears to be acquainted with the facts and circumstances of any matter under this Act, and that person must attend as so required.

(3) An investigator may seize —

25 (a) any book, document, record or electronic material mentioned in subsection (2)(a)(ii); or

(b) any article or thing mentioned in subsection (2)(a)(iii), that is produced for inspection by the investigator.

30 (4) An investigator may without warrant, during regular business hours and without notice, enter, inspect and search any premises which are used or proposed to be used, or in respect of which there is reasonable cause to believe are being used —

- (a) by a person to carry out a prescribed practice of traditional Chinese medicine; or
 - (b) to keep any book, document, record, electronic material, article or thing used in connection with the carrying out of a prescribed practice of traditional Chinese medicine.
- 5
- (5) For the purposes of subsection (4), the investigator may —
- (a) inspect and make copies of and take extracts from, or require the registered person, or the occupier or any person having the management or control of the premises, to provide copies of or extracts from, any book, document, record or electronic material relating to the affairs of the premises, the facilities or services provided at the premises or the practices or procedures being carried out at the premises;
 - (b) inspect and make copies of and take extracts from, or require the registered person, or the occupier or any person having the management or control of the premises, to provide copies of or extracts from, any medical record of any person who has been or is being treated or examined at the premises, even though the prior consent of that person has not been obtained;
 - (c) inspect any apparatus, appliance, equipment or instrument used or found on the premises;
 - (d) inspect, test, examine, take and remove any plant, chemical, pharmaceutical, medicinal product, herbal medicine or any other substance found on the premises;
 - (e) inspect, test, examine, take and remove any container, article or other thing that the investigator reasonably believes to contain or to have contained any plant, chemical, pharmaceutical, medicinal product, herbal medicine or any other substance found on the premises;
 - (f) inspect any test or procedure performed or carried out on the premises;
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- (g) take any photographs or video recording as the investigator thinks necessary to record the premises or part thereof, including —
- 5 (i) any apparatus, appliance, equipment, instrument, article, book, document, record or any other thing found on the premises; and
- (ii) any test or procedure performed or carried out on the premises; or
- 10 (h) seize and remove from the premises any book, document, record, electronic material, apparatus, appliance, equipment, instrument, plant, chemical, pharmaceutical, medicinal product, herbal medicine or any other substance or thing which the investigator reasonably believes to be, or to be connected with, the
- 15 subject matter of the investigation.

(6) For the purposes of subsection (5)(a) and (b), the investigator may require an individual who is able to operate any equipment at the premises to do so for the purpose of enabling the investigator to ascertain whether the equipment, or a disk,

20 tape or storage device that can be used or associated with the equipment, contains information that is relevant to the investigation.

Offence of obstructing, etc., investigator in exercise of powers

- 25 **30.** A person who, without reasonable excuse —
- (a) obstructs, hinders or delays an investigator in the exercise of any power under section 29;
- (b) neglects or refuses to produce a book, document, record, electronic material, article or thing or furnish
- 30 any information as required under section 29; or
- (c) neglects or refuses to attend before an investigator as required under section 29,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Offence of furnishing false information

5 **30A.** A person who makes a statement or furnishes any information to an investigator under this Act which the person knows or ought reasonably to know to be false in a material particular or misleading by reason of the omission of a material particular shall be guilty of an offence and shall be liable on
10 conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Disposal and forfeiture of seized documents, articles, etc.

30B.—(1) Any document, article or thing seized under section 29(3) or (5)(h) must —

- 15 (a) where the document, article or thing is produced in any criminal trial, be dealt with in accordance with section 364 of the Criminal Procedure Code (Cap. 68);
- (b) where the owner of the document, article or thing consents to its disposal, be deemed to be forfeited; or
- 20 (c) in any other case —
- (i) be returned to the owner; or
- (ii) be reported to a Magistrate’s Court.

(2) Where the report of any document, article or thing seized under section 29(3) or (5)(h) is made to a Magistrate’s Court under subsection (1)(c)(ii), the Magistrate’s Court may order the
25 document, article or thing —

- (a) to be forfeited; or
- (b) to be disposed of in such manner as the Magistrate’s Court thinks fit.
- 30 (3) Subject to any order to the contrary by the Magistrate’s Court, any document or article forfeited or deemed to be

forfeited under this section must be delivered to the Board and must be disposed of in such manner as the Registrar thinks fit.

5 (4) This section does not prejudice any right to retain or dispose of any property which may exist in law apart from this section.”.

Amendment of section 31

10. Section 31 of the principal Act is amended by deleting subsection (1) and substituting the following subsections:

10 “(1) All fees, penalties and other moneys payable under this Act that are not paid are recoverable as a debt due to the Board.

(1A) Subject to subsection (1B), all fees and other moneys collected or recovered by the Board under this Act must be paid to the Board.

15 (1B) All composition sums collected by the Board under this Act must be paid into the Consolidated Fund.”.

New section 31A

11. The principal Act is amended by inserting, immediately after section 31, the following section:

“Public servants

20 **31A.**—(1) Every member and employee of the Board, in relation to that person’s administration, assessment, collection and enforcement of payment of any composition sum collected under this Act is taken to be a public officer for the purposes of the Financial Procedure Act (Cap. 109).

25 (2) Section 20 of the Financial Procedure Act applies to each of the persons mentioned in subsection (1) even though that person is not or was not in the employment of the Government.”.

New section 34A

30 **12.** The principal Act is amended by inserting, immediately after section 34, the following section:

“Composition of offences

5 **34A.**—(1) The Board may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

- (a) one half of the amount of the maximum fine that is prescribed for the offence;
- (b) \$2,000.

10 (2) On payment of such sum of money, no further proceedings are to be taken against that person in respect of the offence.”.

Amendment of section 36

13. Section 36(2) of the principal Act is amended —

(a) by inserting, immediately after paragraph (d), the following paragraphs:

15 “(da) provide for the appointment of members to and composition of a Complaints Review Committee, Investigation Committee, Health Committee or Interim Orders Committee appointed under this Act;

20 (db) prescribe the procedures of, and regulate the conduct of any proceedings by, a Complaints Review Committee, Investigation Committee, Health Committee or Interim Orders Committee appointed under this Act;”;

25 (b) by inserting, immediately after paragraph (e), the following paragraphs:

“(ea) provide for the grant and renewal of practising certificates, including prescribing conditions for such grant and renewal;

30 (eb) regulate the professional practice, etiquette, conduct and discipline of registered persons;

- 5 (*ec*) enable an Investigation Committee, a Health Committee and an Interim Orders Committee to order and give discovery and inspection of documents for the purpose of any proceedings before them;
- 10 (*ed*) secure that the registered person in respect of whom an interim suspension order or interim restriction order has been made must, if the registered person so requires, be entitled to be heard by an Interim Orders Committee on each occasion when it reviews the order, and be represented by counsel during such review;”.

Saving and transitional provisions

15 **14.**—(1) Sections 19, 21, 28 and 29 of the principal Act continue to apply in relation to any complaint or matter against a registered person brought to the attention of the Board before the appointed day, and is pending immediately before that day, as if this Act had not been enacted.

20 (2) Sections 19, 28 and 29 of the principal Act continue to apply in relation to any investigation of any complaint or matter commenced before the appointed day, and is pending before an Investigation Committee immediately before that day, as if this Act had not been enacted.

25 (3) Section 21 of the principal Act continues to apply to any right of appeal from a decision of the Board under section 19(1) or (2) of the principal Act that accrued before the appointed day as if this Act had not been enacted.

30 (4) For a period of 2 years after the appointed day, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature as the Minister may consider necessary or expedient.

(5) In this section, “appointed day” means the date of commencement of the Traditional Chinese Medicine Practitioners (Amendment) Act 2018.

EXPLANATORY STATEMENT

This Bill seeks to

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

Note 1: SK/TCMP (Amd) Bill 2018 (v1.09) (27032018)