

Frequently asked questions

June 2016

Stakeholder forums – common questions from Chinese Medicine practitioners to the National Board

The Chinese Medicine Board of Australia (the CMBA) has recently held a number of forums around Australia. There have been a number of common questions and issues raised. This FAQ has been provided to help all Chinese medicine practitioners who may also have these questions, know the answers.

Use of the title of acupuncturist and the term acupuncture

Under the National Law¹, for all the regulated professions, there are specific titles which are referred to as 'protected titles'. This means that only those people who are registered, or endorsed in a particular profession can use the titles associated with that regulated profession.

The aim of title protection is to protect the public by restricting the use of specified titles to practitioners who have been assessed as qualified, competent and suitable to deliver the specified services. The public:

- knows that these titles are restricted, and
- relies on the titles/words that health practitioners use and what they call themselves in order to identify their area of health care and their qualifications and authority.

Protected title 'acupuncturist'

The title 'acupuncturist' is protected under the National Law and can only be used by:

- persons registered with the CMBA in the division of acupuncture, or
- other registered health practitioners endorsed by their own board to practise as an acupuncturist.

There are penalties for falsely using protected titles or 'holding out'. 'Holding out' means to present yourself in a way that makes others believe that you are a registered health practitioner when you are not. 'Holding out' in this situation means pretending to be an acupuncturist.

Any health practitioner who holds registration with another National Board cannot be prosecuted for using the protected title 'acupuncturist' even if they do not hold endorsement with their board. It is open to the relevant National Board to take action about the practitioner's conduct or performance.

If a registered, but unendorsed, health practitioner is using the word 'acupuncturist', you can make a complaint to their relevant board by lodging a notification with the Australian Health Practitioner Regulation Agency (AHPRA) at www.ahpra.gov.au/Notifications/What-is-a-notification/Common-types-of-notification/What-is-an-offence.aspx.

¹ Health Practitioner Regulation National Law, as in force in each state and territory.

The term acupuncture

The word 'acupuncture' is not a protected title.

The National Law prohibits an unregistered or unendorsed person knowingly or recklessly using a title, name, symbol, word or description (in this example the word acupuncture), **having regard to the circumstances**, in a way that could reasonably indicate that:

- the person is an acupuncturist, and/or
- the person is authorised or qualified to practise acupuncture.

For a person who is unregistered, the use of the word 'acupuncture' in combination with other practices or words may give rise to an offence under the National Law. If you think an unregistered practitioner is using the word 'acupuncture' in circumstances which may lead a member of the public to falsely believe that they are a registered acupuncturist, you can raise your concern by making a complaint with AHPRA through their website at www.ahpra.gov.au/Notifications/What-is-a-notification/Common-types-of-notification/What-is-an-offence.aspx.

Dry needling

The CMBA is well aware of the profession's concerns about this issue. It needs to be understood, however, that the role of the CMBA is to make sure that the Australian community receives safe and quality health services from **registered** Chinese medicine practitioners. In turn, this of course protects the reputation of Chinese medicine. The role of the CMBA is not to protect the profession against competition.

- The words 'dry needling' is not a protected title.
- It is not an offence for health practitioners to use the words 'dry needling'.

If, however, you think an **unregistered** health practitioner is providing an unsafe service, you can make a complaint to a relevant Health Complaints Entity (HCE). You can find out about your HCE at www.ahpra.gov.au/Notifications/About-notifications/Working-with-health-complaints-entities/Health-complaints-entities.aspx.

AHPRA and the National Boards do not have jurisdiction over unregistered persons who offer dry needling.

Use of the title Doctor (Dr)

'Dr' is not a protected title.

However, if you choose to adopt the title 'Dr' in your advertising and you are not a practitioner registered with the Medical Board of Australia, then (whether or not you hold a Doctorate degree or PhD) you should make it clear that you do not hold registration as a medical practitioner. For example, by including a reference to your health profession whenever the title is used, such as 'Dr Jane Citizen (Chinese medicine)'.

Can I use the word specialist?

No, there are currently no approved specialities for Chinese medicine practitioners. As a Chinese medicine practitioner you, your employer or a body corporate cannot:

- advertise yourself as being a specialist practitioner, nor
- advertise specialist Chinese medicine practitioner services.

If you falsely hold out that you are a specialist Chinese medicine practitioner, the CMBA may take action about your conduct or performance.

Chinese medicine practitioner's should be aware that the word 'specialise' may be problematic as it may give a consumer the impression that you hold specialist registration.

For unregistered persons, it is an offence under the National Law to claim that you hold specialist registration when you do not.

Guidelines on advertising

The CMBA consider the overall context of the advertising when assessing whether particular statements may be an offence under the National Law.

The CMBA *Guidelines for advertising regulated health services* is published on the CMBA's website www.chinesemedicine.gov.au. The guidelines provide more information about advertising. Chinese medicine practitioners must ensure that their advertising does not breach the National Law.

Anyone who has concerns about the health, performance or conduct of a registered health practitioner can make a notification to AHPRA through their website at <http://www.ahpra.gov.au/Notifications/Make-a-complaint.aspx>.

Access to some currently restricted herbs

The CMBA is well aware of the profession's concerns about this issue. The CMBA continues to work towards approval of some herbs which have a strong traditional base. There have been two very important steps which have already occurred, which will assist the process of gaining access:

1. national registration of Chinese medicine practitioners, and
2. the *Guidelines for safe practice of Chinese herbal medicine*.

To progress further, changes will need to be made to the *Standard for Uniform Scheduling of Medicines and Poisons (SUSMP)*, which is a legislative instrument published by the Commonwealth government. It is very difficult to make changes to this document, and the process would also require the agreement of each state and territory.

Why is the registration fee lower in New South Wales (NSW)?

NSW is a 'co-regulatory jurisdiction'. This means NSW manages the complaints about NSW-based Chinese medicine practitioners through the Chinese Medicine Council of NSW (the Council). The Council effectively performs the same functions as the CMBA's Registration and Notifications Committee with respects to notifications, in relation to NSW complaints only.

The NSW Government partially funds this co-regulatory function and for Chinese medicine, a subsidisation is passed onto registered Chinese medicine practitioners whose principal place of practice is NSW. This is balanced, however, against the cost of NSW managing complaints within any of the professions. Currently, for three professions (psychology, podiatry and osteopathy) the fee in NSW is higher than the national fee for practitioners outside NSW.

This arrangement was a decision of the NSW parliament for all regulated health care professions including Chinese medicine.

For more information please contact the Health Care Complaints Commission on (02) 9219 7444 or visit their website at <http://www.hccc.nsw.gov.au>.