

English language standard – further FAQ

February 2012

What if I cannot submit the requested evidence of education in an English-speaking country, even though my first language is English?

For administrative efficiency, you will be asked to sign a declaration about your education. Evidence will not be required unless you are audited in the *future*, or *if this is relevant to a complaint that is made about your practice*.

How do I determine the full-time equivalent of my part-time studies?

Your university can tell you how long a course takes to complete. You can only claim the amount of time your studies would take full-time as evidence; regardless of whether it took you longer because you were studying part-time. For example, if a course takes three years full-time, but you studied it part-time over a longer period, you can still only claim it as evidence of three years (full-time) study.

I have been practising successfully and effectively for years. My English is good but my English language test result is just below the required standard OR my test result is 6.0, but it was the ‘non-academic’ test, which does not meet the required standard. I am concerned that having to use interpreters will have a major negative impact on my practice.

The English language standard sets the minimum level of English language competence for all practitioners. However, there is also some flexibility for those who cannot meet the standard.

The requirement to use an interpreter is only applicable “where the practitioner and the patient do not share a common language”. In these cases, a suitable interpreter must be used. The definition of a suitable interpreter is an adult who:

- has experience in health interpreting
- is agreed to by both the patient and the practitioner
- is considered by both the patient and the practitioner to be competent in communicating in their respective languages, and
- agrees not to compromise privacy and confidentiality.

The Chinese Medicine Board (the Board) will not direct you to use a specific interpreter. You should choose someone who can communicate effectively with your patient in their language, based on your professional judgement. Your primary consideration should be the safety and wellbeing of your patients, for which you are accountable. The Board cannot give you detailed instructions on how practitioners can individually ensure this. It may also be appropriate, if the patient agrees, to use a friend or family member of the patient. You do not have to employ an interpreter, either full-time or part-time.

The Board may inquire into the arrangements you have in place in relation to a suitable interpreter. This may occur if a notification is made about you, or as part of an audit.

Conditions on your registration may vary depending on the evidence you provide in your application.

You can apply at any time for a condition on your registration to be removed if there has been a material change in circumstances, for example, if you have completed an English language examination and can satisfy the English language standard.

I have practised safely and competently in Chinese medicine for years and my English-speaking clients have been happy with me. Although I speak English fluently, I do not have International English Language Testing System (IELTS) test results. Do I still need an interpreter throughout the consultation when I consult with an English-speaking client?

Being able to communicate effectively with patients and other health practitioners is an important part of good Chinese medicine practice.

The English language standard states that those who cannot demonstrate that they meet its requirements may have conditions placed on their registration as outlined in the standard. Conditions are not punitive but are imposed when necessary to support the practitioner and to protect the public.

The conditions may vary depending on what evidence you submit. Section 83 of the *Health Practitioner Regulation National Law Act* (the National Law) gives the Board the power to impose conditions that are necessary, or desirable in the circumstances. The Board has a duty to engage with each applicant and their individual circumstances, and to consider the submissions received.

In other words, the conditions proposed in the standard are only a starting point.

One possible condition that can be placed on a practitioner's registration is that where the practitioner and the patient do not share a common language, a suitable interpreter must be used. The definition of a suitable interpreter is an adult who:

- has experience in health interpreting
- is agreed to by both the patient and the practitioner
- is considered by both the patient and the practitioner to be competent in communicating in their respective languages, and
- agrees not to compromise privacy and confidentiality.

If your registration is subject to such a condition, you are accountable for your practice and need to make a sincere, professional judgment about the adequacy of your arrangements to protect the safety and wellbeing of your patients. The Board cannot give detailed instructions on how practitioners can individually ensure this. This would be micro-managing professional people who are expected to have an ability to make such judgements. In the unlikely event that a notification is made about you, which relates to these conditions or to your English language skills in general, you may be asked to explain/justify your thinking and your arrangements. There will also be random auditing in the future. If you are selected for audit, you will be required to demonstrate/provide evidence of the arrangements you have in place to meet the conditions.

Can I apply for the removal of the condition on my registration?

Yes. You may apply any time for a condition to be removed if there has been a material change in circumstances, for example, you have a new English language test result demonstrating that you now meet the English language standard.

Do I have to employ an 'accredited' interpreter?

No. This requirement is not included in the standard.

The standard states that "where the practitioner and the patient do not share a common language, a suitable interpreter is present throughout the consultation and a record of the arrangement is made in the patient's case record on every occasion of consultation and/or treatment".

Common language is defined as a language which you:

- are competent in communicating in for the purpose of practising Chinese medicine
- reasonably believe that the patient is competent in communicating in, and

- reasonably believe will ensure that effective two-way communication occurs (whether by speaking and/or otherwise communicating, for example reading and writing).

How do I know if I have ‘sufficient’ English language proficiency to communicate swiftly and effectively with emergency services?

The standard states that there should always be a person on the premises who has sufficient English language proficiency to communicate swiftly and effectively with an emergency service. If you are not confident of your ability to communicate effectively in English with emergency services, then another person with adequate English to communicate with emergency services should be present on the premises when treatment is undertaken. You need to exercise your own professional judgement in deciding whether your ability to communicate in English, in the circumstances of an emergency, is sufficient to communicate with an emergency service. Your primary consideration should be the safety and wellbeing of your patients, for which you are accountable. The Board cannot give you detailed instructions on how you can individually comply with this requirement.

The Board may inquire into the arrangements you have in place in your practice. This may occur if a notification is made about you, or as part of an audit.

You can apply at any time for a condition on your registration to be removed if there has been a material change in circumstances, for example, if you have completed an English language examination and can satisfy the standard.

Why are the arrangements in the National Registration and Accreditation Scheme (the National Scheme) different to those in Victoria?

They are not significantly different. The arrangement is virtually the same as the arrangement which was applied and was successful in Victoria – the only differences being (i) the way it is managed under the Australian Health Practitioner Regulation Agency (AHPRA) (conditions) as required by the National Law, and (ii) the requirement to make a note in the patient record.

Will everyone who cannot meet the English language standard have the same conditions?

No, this is not likely. Conditions, if they are applied, may vary depending on what evidence you submit. Section 83 of the National Law allows the Board to impose conditions that are necessary, or desirable in the circumstances. The Board has a duty to engage with each applicant and their individual circumstances, and to consider any evidence and submissions received from the applicant. In other words, the conditions proposed in the English language standard are only the starting point. The Board may deviate from these as required. Conditions are not punitive but are imposed when necessary to support the practitioner and to protect the public.

If I have conditions on my registration does this mean I cannot treat English-speaking patients anymore?

No. Even if there are conditions on your registration, you can still consult English-speaking patients, if you are confident that you share a common language. Common language is defined as a language which you:

- are competent in communicating in for the purpose of practising Chinese medicine
- reasonably believe that the patient is competent in communicating in, and
- reasonably believe will ensure that effective two-way communication occurs (whether by speaking and/or otherwise communicating, for example reading and writing).

The definition of a suitable interpreter is an adult who:

- has experience in health interpreting (experience is not defined)
- is agreed to by both the patient and the practitioner
- is considered by both the patient and the practitioner to be competent in communicating in their respective languages, and
- agrees not to compromise privacy and confidentiality.

According to the definition of ‘suitable interpreter’, the interpreter could possibly be someone that the patient provides (for example family or friends).

The Board will not direct you to use a specific interpreter. You are accountable for your own practice arrangements and can choose someone based on your professional judgement.

Do I have to use an accredited interpreter?

The standard does not say you have to employ an 'accredited' interpreter. See previous question.

Can I ever get the conditions removed?

Yes. You can apply at any time for a condition to be removed if there has been a material change in circumstances, for example, if you have completed an English language examination and can now satisfy the standard.

Do I have to have a second person in the clinic just in case I need emergency services?

Not necessarily. The standard says that a person who has sufficient English language proficiency to communicate swiftly and effectively with emergency services is to be present at all times on the premises. This might be yourself. If you are not confident of your ability to communicate effectively in English with emergency services, then another person with adequate English to communicate with emergency services should be present on the premises when treatment is undertaken. You are expected to make a professional judgement in the best interest of your patients, for which you are accountable.

Is the Board going to come and check on me?

AHPRA routinely monitors practitioner's compliance with conditions on their registration in all 14 professions, and Chinese medicine cannot be treated differently. In addition, a random sample will be audited for compliance with the mandatory standards in all 14 professions. AHPRA may inquire into the arrangements you have in place as part of routine monitoring, an audit, or because a complaint is made about your practice. If you are doing the right thing by your patients and complying with the standards and any conditions on your registration, you need not be concerned.

Why does the Board impose conditions?

Conditions are used by the Board, as required by the National Law, to meet its primary objective to protect public safety. It seeks to maintain a balance between interests of public safety and allowing practitioners to continue to practise while improving their qualifications, or practise to meet the required standards. Conditions are not punitive but are imposed when necessary to support the practitioner and to protect the public.

Practitioners registered by the Chinese Medicine Registration Board of Victoria (CMRBV) transitioning to national scheme

Will CMRBV-registered practitioners need to comply with the English standard at any time in the future?

You will continue to be bound by the undertaking you gave when you registered in Victoria to comply with the effective communication guidelines. This is comparable to conditions under the National Scheme. The effective communication undertakings are almost identical to the new requirements under the National Scheme. The Board, however, will utilise conditions on registration rather than undertakings. In addition, the national standard says that when an interpreter is used for a consultation, a record of the arrangement is to be made in the patient's case record. This is good practice and you should also follow this.

If you become de-registered (if, for example, you have not renewed your registration), you will have to apply afresh and will be required to meet all (the new) national standards and evidence requirements. This could be an issue for Victorian-registered practitioners whose registration lapses because they do not renew their registration on time. Please note that the 2012 cut-off date is **31 July 2012** – a shorter period than Victorian-registered practitioners have been used to.

If you continue to maintain your registration, you will not be required to provide evidence of meeting the standard at this stage. Remember that you have signed a statutory declaration agreeing to implement suitable arrangements, which are the same as those conditions proposed for registration under the National Scheme.

For more information

- The Board's registration standards, policies, guidelines and FAQs are published on its website www.chinesemedicineboard.gov.au
- If you do not have internet access, paper copies can be requested by phoning AHPRA on 1300 419 495.
- To lodge an online enquiry form follow the *Contact us* link from the AHPRA homepage www.ahpra.gov.au
- For registration enquiries: 1300 419 495 (within Australia) +61 3 8708 9001 (overseas callers)
- For media enquiries: (03) 8708 9200