Announcement from the Chinese Medicine Board of Australia

Registration Standards approval process

A number of standards for the registration of Chinese Medicine practitioners have been developed by the Chinese Medicine Board of Australia (the Board), including five mandatory standards, and are now approved by the Australian Health Workforce Ministerial Council (AHWMC). A stakeholder consultation process was conducted, and all views taken into consideration before the standards were finalised and provided to Health Ministers for consideration.

Registration standards must be approved by AHWMC before they can be implemented by a National Board and AHPRA. A copy of the approval given by the AHWMC has now been received by the Chair of the Chinese Medicine Board of Australia. The AHWMC Communiqué announcing the approval of the NRAS 2012 professions registration standards is now up on the AHMAC website – see link below http://www.ahmac.gov.au/site/home.aspx (look to the right hand side, heading "media releases")

The approved standards are also published by the Board's website – see http://www.chinesemedicineboard.gov.au/Registration-Standards.aspx

As registration does not start until 1 July 2012, the approved registration standards will not take effect until that date, and national registration can only be granted from 1 July 2012.

This early Ministerial approval, however, facilitates an early call for applications for registration (from February 2012). In order to get applications processed in time, the Board strongly encourage practitioners to lodge their applications by 31 March 2012.

Proposed Standards

The proposed registration standards have been the subject of public consultation in their development and are supported by most stakeholders.

Mandatory registration standards

The CMBA developed its proposed standards drawing on the AHWMC-approved equivalents implemented by the National Boards for the 10 professions currently regulated under the National Registration and Accreditation Scheme (NRAS). The Board paid particular attention to consistency, setting requirements at a reasonable level for the Chinese medicine profession, supporting workforce flexibility and ensuing protection of the public.

The mandatory standards are:

- English language skills—about ensuring that practitioners possess adequate English language skills to enable them to safely practise Chinese Medicine in the Australian context.
- Continuing professional development—about ensuring that practitioners maintain currency in their profession.
- Criminal history—about ensuring that practitioners are suitable persons to be registered and that public safety is not compromised.
- Professional indemnity insurance—about ensuring that practitioners have adequate professional indemnity insurance in place to protect themselves and the public.

- Recency of practice—about ensuring that practitioners have an adequate level of recent practice experience.

Grandparenting registration standard

Many Chinese medicine practitioners will need to apply for registration under the broad grandparenting provisions of the *Health Practitioner Regulation National Law Act* (the National Law) as in force in each state and territory.

The intent of the grandparenting provisions is to ensure that practitioners who are legitimately practising the profession now (particularly outside Victoria where registration is not currently required) are not unjustly disadvantaged because they will not automatically transition into NRAS (as those with Victorian registration will), or because they do not hold an approved qualification.

The Board has tailored the grandparenting requirements for Chinese medicine to enable it to undertake an appropriate assessment of applications submitted under these arrangements and to provide for the protection of the public.

Results of Stakeholder Consultation

A consultation paper was released between 5 September and 10 October 2011 seeking feedback on the proposed registration standards. The Board received 357 submissions before the consultation period ended. Of these, almost three quarters of the submissions were from members of two professional associations and two educational institutions which consistently expressed views on specific issues such as English language requirements, qualifications and evidence required for herbal medicine practices.

English Language Standard

In developing the English language standard, the Board aimed to:

- provide for the protection of the public by ensuring that it registers suitably trained and qualified practitioners that can competently and safely practise the profession in the Australian context;
- determine the standard required for English language proficiency for this profession, noting that many experienced, overseas-trained practitioners who are currently practising the profession in states and territories other than Victoria have never been required to demonstrate English language proficiency in order to practise, and if not registered, may either cease to practise or attempt to practise outside of the regulatory scheme by not using the protected titles;
- develop a registration standard that can be operationalised by AHPRA and that supports consistent and fair decision-making by the Board when assessing applications for registration;
- submit an English Language skills registration standard that is acceptable to Governments, as the AHWMC is the body under the National Law that approves the registration standard;
- assess applications received in accordance with the grandparenting provisions which provide alternative ways for practitioners who do not hold an approved qualification to seek registration, including those who rely on evidence that they have practised the profession for the equivalent of 5 years between 2002 and 2012, many of whom are likely to be Chinese medicine practitioners whose English language skills vary.

The consultation draft proposed a standard (IELTS 7.0) that was higher than the current Victorian standard (IELTS 6.0). The draft also proposed an exemption for “grandparented" practitioners who could not meet the new national English language requirements, subject to suitable arrangements being implemented for communication with patients and emergency services.

Feedback from submissions

Submissions from the profession agreed it that it was reasonable to expect registered practitioners to have an adequate command of the English language as this is the language of communication in Australia. However, some stakeholders from the profession noted the unique development of Chinese medicine practice in Australia, and the need to strike the right balance between protecting the public and allowing existing safe, competent and qualified practitioners to continue to practise in their profession.

The consultation draft approach of providing an exemption for grandparenting applicants was widely supported by submissions from practitioners currently practising the profession, particularly those for whom English is a

second language. This group expressed a high level of anxiety about the prospect of being required to sit an English examination.

One submission, from the current regulator in Victoria, supported a consistent English language standard across the professions regulated under NRAS, but emphasised the importance of considering the special circumstances that exist within the Chinese medicine profession and the origins of the profession.

A submission from a peak professional association noted that while the English language standard is a mandatory standard, not a grandparenting standard, if it is applied without taking into account the circumstances of the existing practitioner cohort, the outcome may be inequitable for practitioners currently practising the profession within a safe and competent scope (eg treating patients with a common or shared language, or having other arrangements in place to ensure adequate communication with English language speaking patients who seek their services).

In contrast, a number ofgovernment stakeholders expressed strong concerns about the approach proposed by the Board to have "grandparenting" exemptions from a mandatory registration standard but also queried the higher proposed IELTS level of 7.0 and whether this might disadvantage students who entered study at a lower level.

Generally government stakeholders submissions expressed concerns about the likely compliance with and monitoring of the proposed appropriate arrangements for communication for those practitioners who could meet the standard. They also indicated that the Board should provide more information to explain the different approach it was taking to English language when compared with the other National Boards - the exception being the Aboriginal and Torres Strait Islander Health Practice Board, which also adopted a different approach to acknowledge that even though practitioners are born, raised and educated in Australia, English may not be their first language or the first language of the majority of their clients.

Board response to submissions

While the Board has reaffirmed its view that the new national standard should be IELTS 7.0 or equivalent, for consistency with the standard set by the majority of the other National Boards, it made revisions to strike a balance between providing for the protection of the public, enabling continuity of patient care within the regulatory umbrella, and providing a transitional mechanism that is transparent and enforceable. The Board strongly supports regulation within NRAS as the preferred option for ensuring public safety as opposed to practitioners practising outside of the scheme.

Key changes include:

- Consistent with other National Boards, an English language test (IELTS, OET or TOEFL) more than two years old may be accepted if evidence can be provided that the applicant has actively maintained employment as a health practitioner using English as the primary language of practice or has been continuously enrolled in an approved program of study
- Evidence of completion of study taught and assessed in English has been simplified to 5 years full-time equivalent at the secondary and/or tertiary level
- Removing the provision for the Board to recognise "other" English language tests from "time to time"
- Inserting a time-limited, 3-year transitional arrangement for applicants who do not meet the new national standard but do meet the post-grandparenting standard set by Victoria immediately prior to 1 July 2012, which is IETLS 6.0. This will accommodate students graduating from their programs of study after 1 July 2012 who started their courses prior to national registration when a lower English language standard was in place. This transitional arrangement will also provide an equitable way for practitioners that have this level and are currently practising to meet the English language standard. There will be practitioners with this standard who will automatically transition into the scheme based on their current Victorian registration.
- A time-limited, 3-year transitional arrangement whereby if an applicant does not meet the national standard or the Victorian standard, the Board would impose conditions to address English language competency in the context of the practitioners' practice of the profession.
- the types of conditions are clearly identified and will appear on the national public register and be monitored, enforced and reviewed on a set date

- clarifying that the Board has other powers under the National Law, including requiring an applicant for registration to appear before the Board to answer any questions it has in relation to the application, including in relation to English language.

Continuing Professional Development (CPD) Standard

There was strong support for the draft standard with some constructive suggestions for clarifications and changes. Changes made include:

- Clarifying the wording, including reference to requirements for practitioners who have an approved scheduled medicines endorsement (herbs); defining “suitable CPD activities”; and using the standard definition of “practice”.
- Adding pro-rata arrangements and exemptions in extenuating circumstances.

In addition, the Board will develop and consult on CPD Guidelines for the profession.

Criminal History Standard

There was unanimous support for the standard as drafted, based on the small number of submissions that made comment.

Professional Indemnity Insurance (PII) Arrangements Standard

There was strong support for the draft standard with some constructive suggestions for clarifications and changes to provide better public protection and improve the standard’s workability. Changes made include:

- Minimum amount of cover increased from $2 million to $5 million for any single claim, to provide better protection to the public. This is consistent with health industry standards.
- Definitions of “claims made policy” and “occurrence-based policy” have been clarified.
- Statements that provide guidance only (and are not a requirement) have been removed.

Recency of practice Standard

There was strong support for this draft standard with some constructive suggestions for clarifications and changes to improve workability. Changes made include:

- The definition of a recent graduate was changed to a person whose qualification was awarded not more than 2 years prior to the date of their application (the draft standard was 1 year).
- Minor editorial changes to improve clarity of wording.

Grandparenting Standard

Feedback from submissions and Board response

The Board gave lengthy and careful consideration to all submissions.

Whilst there was broad support for the standard as drafted, there were strong themes related to the defining of adequate qualifications, particularly the inclusion of advanced diploma as a qualification that would be recognised under the grandparenting arrangements. The Board revised the minimum clinical training requirement and set Advanced Diploma as the standard for 303(1)(b).

There was a concern raised in submissions by a number of acupuncturists who use pre-manufactured Chinese herbs as an adjunctive therapy, that they would not be able to continue selling this product if their Chinese herbal medicine qualifications and/or experience were not deemed adequate under the grandparenting arrangements.

After lengthy deliberation, the Board agreed that it must take its obligation to protect the public seriously by ensuring that only practitioners who are suitably trained and qualified to practise are registered, including across multiple divisions of the register. While acknowledging that this is a part of the current practice of these practitioners, and that it would not be appropriate to restrict this practice if the public was not placed at risk, on balance, public protection obligations are paramount. The Board will, however, assess any applications for registration on merit.

The Board noted that any person may sell pre-manufactured Chinese herbs as part of their practice providing they do not claim to be registered as a Chinese herbalist, or qualified for registration as such or hold themselves out as being so qualified.

A person who is not registered is unable to use the protected titles of Chinese medicine practitioner, Chinese herbal dispenser, Chinese herbal medicine practitioner, Oriental medicine practitioner or acupuncturist.

The changes made to the draft standard include:

- Setting standards for s.303(1)(a) at bachelor degree or equivalent
- Settings standards for s.303(1)(b) at broadly consistent with the advanced diploma level
- Revision of the minimum clinical training required for s.303(1)(b) qualifications
- Editorial and formatting changed to improve the clarity of the proposed standard

The Board wishes to thank all those people who took the time to read and provide feedback on its standards. It believes that this feedback has strengthened the final standards.