

**Your ref:**  
**Our ref:** AF 1226  
**Contact:** Ms Jane Street  
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Ms Debra Gillick  
Executive Officer  
Chinese Medicine Board of Australia  
AHPRA  
Via email: [chinesemedicineconsultation@ahpra.gov.au](mailto:chinesemedicineconsultation@ahpra.gov.au)

Dear Ms Gillick,

**Submission regarding the draft registration standards for  
Chinese Medicine Board of Australia**

I refer to the the board's Consultation Paper on the proposed standards for the registration of Chinese medicine practitioners. Thank you for the opportunity to make a submission.

Since 2005-06 the Commission has received 19 complaints about Chinese medicine practitioners, including acupuncturists. Of these the Commission has investigated ten complaints regarding serious incidents of harm, or serious misconduct.

The Commission generally agrees with the five mandatory registration standards proposed by the board in relation to continuing professional development, criminal history, English language skills, professional indemnity insurance and recency of practice. However, given some of the issues uncovered during its investigations into complaints against Chinese medicine practitioners, the Commission does have concerns about the proposed grandparenting registration standard and would like to make some comments in relation this standard.

The Commission notes that the provisions for grandparenting registration are set out in section 303 of the *Health Practitioner Regulation National Law Act*. This section allows that a practitioner who applies for registration in a profession before 1 July 2015 is qualified for general registration if they:

- hold a qualification or have completed training in the profession, whether in a participating jurisdiction or elsewhere, that the board considers is adequate for the purposes of practising the profession, or
- hold a qualification or have completed training in the profession, whether in a participating jurisdiction or elsewhere, and have completed any further study, training or supervised practice in the profession required by the board for the purposes of this section; or
- have practised the profession for five years, not necessarily consecutively, between 1 July 2002 and 30 June 2012.

The Commission recognises the grandparenting standard proposed by the board has been drafted to meet these requirements, however it is concerned that evidence of five years of practice since 2002 alone is not an appropriate measure of a practitioner's suitability for registration. In addition the Commission has concerns about the board's proposed criteria regarding adequate qualifications, particularly any Chinese medicine qualifications obtained

overseas, as the Commission's experience has been that these qualifications are not themselves sufficient to ensure practitioner competence.

The Commission does not believe that the public health and safety will be appropriately protected if practitioners are only required to provide evidence of five years of practice, or without a detailed review by the board, of the units of study in overseas qualifications.

The Commission recognises that the board has made efforts in the grandparenting standard to include a measure of a practitioner's competence and believes that in addition to overseas qualification or evidence of practice, a practitioner must be required to provide evidence of competence, or sit an examination to evaluate their competence before they considered for registration.

The following complaint recently investigated by the Commission helps to illustrate the Commission's concerns.

The Commission received a complaint about the treatment provided by an acupuncturist where immediately following acupuncture the patient had been 'gasping for breath'.

The patient had x-rays that day and which showed a "massive left sided pneumothrax" (collapsed lung). He was admitted to hospital where a chest drain was inserted and was discharged the next day.

The Commission investigated the complaint and found that the acupuncturist had not provided health services in a safe manner, as he had inserted a needle to an unsafe depth causing injury.

During its investigation the Commission questioned the acupuncturist about his education in acupuncture and in particular his study of anatomy.

The practitioner had obtained an Advanced Diploma in Acupuncture and Massage from a University of Traditional Chinese Medicine in China. He had also obtained a Diploma in Remedial Massage from an Australian College twelve years later.

The practitioner stated that he had chosen to complete a three-year diploma course in China because it was "shorter" than the degree. The Commission obtained his academic transcript which shows that he studied anatomy for a total of 72 hours. Under close examination, however, it became clear that his study of anatomy was very limited and obtained in the course of studying traditional Chinese massage.

The Commission made a Prohibition Order and issued a Public Statement. The order prohibited the acupuncturist from practising acupuncture until he completed an appropriate course in acupuncture and anatomy and provided evidence of the completion of the course to the Commission.

The Commission's prohibition order also placed conditions on the acupuncturist's provision of massage services and directed him to display a notice on his premises, advising that he is unable to practice acupuncture until this prohibition order has been lifted. The Commission's prohibition order is still in effect.

According to the curriculum vitae provided to the Commission the practitioner stated he had been the "Director of Healthcare Business" for the last six years, since August 2004. His CV also stated that he had been employed as a part time and casual acupuncturist and administrator from January 2003 to July 2004, and had been employed as an acupuncturist at a hospital in Hunan, China from July 1996 to July 2002.

This investigation raises two major concerns regarding the proposed grandparenting registration standard.

*1. Adequate qualifications*

In light of this investigation and in reviewing the board's grandparenting registration standards the Commission has concerns about the board's proposed criteria for adequate qualifications. From the investigation it was evident that the anatomy component of the particular Chinese qualification was neither adequate nor detailed enough to ensure the practitioner had the knowledge to practice in a safe manner. The Commission is concerned that practitioners who meet the adequate qualification criteria may not be competent to practice.

The Commission recognises that the board has set the adequate qualifications as a bachelor degree or higher, however without detailed knowledge of the course structure and units of study for each qualification, it will be impossible for the board to accurately assess the knowledge and competency of each individual practitioner.

The Commission recommends that there be a requirement that any qualification that the board considers adequate for the purposes of practising the profession include detailed and in-depth training in biomedical science, with a particular emphasis on anatomy. A significant proportion of each course should include training in anatomy, with an emphasis on anatomy for acupuncture, not Chinese massage.

If a specific qualification does not meet these requirements then additional competency evidence or an examination of competency should be required.

*2. Practice experience*

During the Commission's investigation the acupuncturist stated in his curriculum vitae provided to the Commission that, apart from a period of 4 months, he had been practising as an acupuncturist since July 1996 until July 2010.

The Commission understands that a minimum of ten pieces of evidence of practice experience would be required for the board to consider a practitioner suitable for registration. In the Commission's view it would not be difficult for a practitioner to meet the evidence requirements, however it is clear from the Commission's investigation that practice experience alone is not an appropriate or effective measure of a practitioner's competence.

Despite section 303 of the National Law the Commission recommends that there be a requirement that evidence of practice in the profession should not be in itself a qualifying criteria for general registration and that the board should require additional competency evidence or an examination of competency.

Thank you again for the opportunity to comment on the proposed standards. Please direct any questions regarding the Commission's submission to Jane Street, Executive Officer on (02) 9129 7483 or [jstreet@hccc.nsw.gov.au](mailto:jstreet@hccc.nsw.gov.au)

Yours sincerely,

(signed 7/10/11)

Kieran Pehm  
**Commissioner**