

# Australian News: National Registration

**EDITOR'S NOTE:** With the imminent introduction of national registration, the AJACM Editorial Board thought it timely to publish a selection of views about the impact of national registration on Chinese medicine practitioners and the profession. We sought views from the Chinese Medicine Board of Australia (CMBA), the Australian Acupuncture and Chinese Medicine Association Ltd (AACMA), and three practitioners of Chinese medicine: a veteran practitioner, a relatively new member of the profession, and an overseas-trained practitioner.

## Impact of national registration on Chinese medicine practitioners

By **Debra Gillick**

Executive Officer for the Chinese Medicine Board of Australia

Historically, the regulation of health professionals was undertaken by states and territories, without a consistent approach across Australia. From 1 July 2010, however, health regulation became a national function in Australia. Implementing the National Registration and Accreditation Scheme (NRAS) has meant significant upheaval and no part of Australia's health system has been left untouched. This new National Scheme marks the first time one country has regulated the practice of 10 health professions – made up of more than 530,000 health practitioners - using a single National Law, to protect the public and facilitate access to health services.

While many features of the National Scheme are new and different, the core focus of practitioner regulation on patient and public safety remains unchanged.

A recent paper has now been published as Online Early in Australian Health Review by Vivian Lin (former President) and Debra Gillick (former Registrar) of the Chinese Medicine Registration Board of Victoria (CMRBV). The Victorian experience of registration and complaints handling suggested that the decision to regulate Chinese medicine was appropriate, that is, that minimum standards of qualification, competence and conduct in healthcare were needed and have had to be enforced, in the interest of protecting public health and safety, through non-registration of some existing practitioners as well as disciplinary measures against some of the registered practitioners. The experience of CMRBV gives credence to the initial policy research and the subsequent decision to adopt statutory registration. As such, the experience provides an endorsement of the decision by Australian Health Ministers in 2009 to move to national registration, and points to the usefulness of the AHMAC criteria as the basis for deciding which professions are riskier and should be registered.

With registration in place only in Victoria, the limitation of federalism means that consumers of Chinese medicine elsewhere in Australia have not been afforded the same level of protection. The data from the CMRBV experience point to persistent problems in other jurisdictions, and therefore the desirability of a national approach. The challenges are expected to be similar, such as cultural differences, English language proficiency, fragmented representation of profession, majority in independent practice, grandparenting for existing practitioners, limits of 'title protection' as legislative mechanism, overseas qualifications and access to scheduled herbs.

From 1 July 2012, four more health professions, including Chinese medicine, join the scheme and Chinese medicine practitioners must then be registered under the NRAS.

The Australian Health Workforce Ministerial Council (AHWMC) appointed the nine inaugural members to the first Chinese Medicine Board of Australia under the Health Practitioner Regulation National Law Act, as in force in each State and Territory, from 1 July 2011. In making the appointments, Ministers took into account the feedback they received from submissions on the size and composition of the boards and decided that the Chinese medicine board would have nine members, comprising six practitioner members and three community members. The National Board has since begun important preparatory work to enable Chinese medicine practitioners to join the national scheme in July 2012.

The primary objective of the national scheme is the same as that for all the previous state-based systems – public safety. The national scheme has additional benefits though in that it will also enable practitioners to move around the country easily, reduce red tape, provide greater safeguards for the public and promote a more flexible, responsive and sustainable health workforce.

The role of the Chinese Medicine Board of Australia, as for the 13 other Boards, is broad policy direction. It is required to set standards which apply to all registered practitioners for the purpose of protection of the public.

This is different to the role of, say, professional associations which importantly represent the interests of the profession.

The Australian Health Practitioner Regulation Agency (AHPRA) has a different role too – its role is to provide administrative and operational support to the national boards and is tasked with ensuring the efficient and effective operation of NRAS. The AHPRA website is at <<http://www.ahpra.gov.au/>>.

Educational institutions fulfil another important role by delivering entry-level practitioner training and will seek Board approval so that their graduates are eligible for registration.

The Board members are called upon to contribute to careful consideration and decision-making on all matters brought before the Board. NRAS aims to drive national consistency of standards, processes and decision-making.

The transition to the National Scheme entails a number of challenges for the Board and a initial focus includes familiarising itself with the provisions of the National Law and ensuring that the Board's decision-making reflects the objectives and guiding principles of that legislation. A clear requirement to declare and properly deal with conflicts of interest is spelled out in the National Law (Schedule 4, Clause 8) and the Board adheres carefully to these requirements.

To support registrants and other stakeholders in the transition to the National Scheme, the Board has made a number of presentations to stakeholders and will continue to do this as final decisions are made.

The National Boards for the 2012 professions (the four new professions entering the scheme from 1 July 2012) have each developed their proposed mandatory registration standards drawing on the AHWMC-approved equivalents that were implemented by the National Boards for the 10 professions that are currently regulated under NRAS. The Board is expected to work towards national consistency in the regulation of Chinese medicine practitioners. The scheme aims for consistency in the professional standards that registered practitioners must meet and consistency in the approach to managing notifications and responding to practitioner and community queries across all of our state and territories offices. This will advance the shared goal of implementing best practice regulation of Australian health practitioners. National practitioner data across Australia will also be useful for workforce policy and planning.

The Board is making significant progress. In September 2011 the National Board released a consultation paper on proposed registration standards for:

- Continuing professional development

- Criminal history
- English language skills
- Professional indemnity insurance
- Recency of practice
- Grandparenting.

The consultation generated prolific and polarised feedback. Following this the Board was required to carefully consider all feedback and prepare final drafts to be submitted to the Ministerial Council (all Health Ministers in Australia) for final approval.

In November 2011 it will release consultation documents on:

- Advertising Guidelines
- Code of Conduct
- Guidelines for mandatory notifications
- Patient records
- Composition of Accreditation Committee

The closing date is expected to be 9 January 2012. Please keep an eye on the Chinese Medicine Board website <<http://www.chinesemedicineboard.gov.au/>>.

By late February 2012 the Board plans to have the registration applications forms ready and it strongly encourages practitioners to submit applications by the end of March 2012 to enable it to complete the huge task of assessing thousands of applications for registration under the special grandparenting arrangements.

Special grandparenting provisions for registration are set out under Section 303 of the National Law. An individual may be eligible to apply for registration until 1 July 2015 even if the person does not hold an approved qualification for registration, but does have other relevant qualifications, training, or experience practising the profession. The intent is to ensure that practitioners who are legitimately practising the profession (particularly in those jurisdictions that did not require registration) are not unjustly disadvantaged because they are not automatically transitioned to the national registration scheme as a state or territory registrant or because they do not hold an approved qualification.

It is important to note that all of the other eligibility for registration requirements set out in section 52 of the National Law also apply to people seeking registration using the grandparenting provisions.

In conclusion, the Chinese Medicine Board of Australia is in its early stage of operation to fulfil its role in protecting public health and safety through standard setting and registering qualified practitioners. It looks forward to working with the profession and other stakeholders to achieve these goals collaboratively.

## What national registration means for a professional association – the AACMA view

By **Judy James<sup>1</sup>** and **Ian Murray<sup>2</sup>**

1. Chief Executive Officer of AACMA
2. President of AACMA

Undoubtedly, the commencement of national registration in 2012 represents a watershed in the development of the profession in Australia. This has been achieved through the hard work and dedication of many individuals and organisations over the past three decades, although it only came to fruition in recent years.

In our view, the key positives for national registration clearly outweigh the negatives. National registration will, for the first time, enable minimum national standards of Chinese medicine education to be legally enforceable. This creates the basis for a minimum national standard for entry in the profession and means that, in the future, unqualified practitioners will be prevented from commencing acupuncture and/or Chinese herbal medicine practise in Australia.

Public safety is enhanced through enforceable practice standards and guidelines. Through independent complaints processes, it is expected that unethical and unsafe practitioners would be progressively weeded out of the profession or placed in programs to improve their performance to an acceptable level. This can only benefit the profession through increased public confidence in a profession that adheres to high standards of ethics and practice.

Other benefits to accrue from national registration include access to funding programs, such as the Nursing and Allied Health Scholarship and Support Scheme, and better cooperation and communication with other registered health professions. The Enhanced Primary Care program is another area targeted for the post-registration environment.

However, national registration has not been without its critics and there is a level of concern about the possible negative impact that national registration may have on the profession in the long term.

These concerns include potential narrowing of the focus of practice, loss of diversity of practice, reduced innovation, standardisation as opposed to individualisation, and the financial cost of registration. While these concerns may never fully actualise, AACMA will be carefully monitoring developments to ensure that we retain the core values and practices that have brought us to this point. Chinese medicine

is, after all, the internationalised health profession and practice with the longest uninterrupted history of development.

By far the issues of most immediate interest to existing practitioners are the standards that will apply in the first three years of the scheme (that is, up until 30 June 2015). The transitional (or grandparenting) standards had not been approved by Ministerial Council at the time of writing and therefore were unavailable for comment in this article. AACMA had lodged a fairly detailed submission that heavily criticised aspects of the proposed grandparenting standard. Similarly, the draft mandatory registration standards (continuing professional development, criminal history, English language, professional indemnity insurance, and recency of practice) received a mixed response.

The key issues raised in the AACMA submission to the CMBA on the draft registration standards were:

- The proposed criteria for proving competence in Chinese herbal medicine could result in many Chinese medicine practitioners who initially qualified in acupuncture and later added Chinese herbal medicine into their practices being driven out of Chinese herbal medicine practice – whereas an unregistered practitioner (such as a naturopath or Western herbalist) would be able to prescribe manufactured Chinese herbal medicine products with apparent impunity;
- A likely impact will be that distributors of manufactured Chinese herbal products listed with the Therapeutic Goods Administration may find it necessary to relabel product to remove all reference to Chinese herbal medicine and traditional formula names – in order to supply product that can be used by practitioners not registered in the Division of Chinese Herbal Medicine;
- The criteria for proving competence in the practice of acupuncture and/or Chinese herbal medicine (applies to applicants who do not hold a qualification recognised for grandparenting purposes) on their surface do not cater for qualified practitioners of Japanese acupuncture, Japanese Kampo medicine and Korean oriental medicine, all of which have a legitimate expectation of being registered with the CMBA.

Of course, these issues may have been addressed in the revised standards being considered by Health Ministers – so watch this space for updates.

The other immediate issue of concern to acupuncturists is the proposed Acupuncture Accreditation Standard prepared by the Australian Physiotherapy Council on behalf of a number

of the existing national boards. Under the national law, the other (non-Chinese medicine) boards may set a standard for endorsement for their registered practitioners to use the title 'acupuncturist'. As the primary purpose of registration is to protect the public, it would be counter to this principle if the standards were not comparable to the standards set or being set by the Chinese Medicine Board of Australia. Otherwise, how are consumers to know that Practitioner A is a qualified CMBA-registered acupuncturist and that Practitioner B has done a short course in acupuncture and obtained 'endorsement' by another board to use the title 'acupuncturist'?

The AACMA arguments on these issues are outlined in detail in the AACMA submissions to the Chinese Medicine Board of Australia and the Australian Physiotherapy Council which can be downloaded from the following sites: <[www.acupuncture.org.au](http://www.acupuncture.org.au)>, <<http://www.chinesemedicineboard.gov.au/News/Past-Consultations.aspx>> and <<http://www.physiocouncil.com.au/consultations/consultation-paper-proposed-acupuncture-accreditation-standard/consultation-paper-proposed-acupuncture-accreditation-standard>>.

Finally, it is important that practitioners understand the difference between the CMBA and the AACMA. The CMBA is/will be the national regulator whose primary purpose is to protect the public. The AACMA is the peak national professional body whose purpose is to protect, develop, represent and promote the profession and to provide services to its members. The profession will continue to need a strong and viable national association to provide leadership and representation, to lobby for appropriate standards of education and practice, and to do what is necessary to protect its interests.

## What national registration means to me – a veteran practitioner

**By Christine Berle**

In private practice, Sydney

I graduated in 1976 from Acupuncture Colleges (Australia) and actively helped establish the acupuncture profession in Australia. I have an established acupuncture practice at Guildford, NSW and have practised acupuncture in the area for 35 years.

What does national registration mean to me? During 2011 I was an expert witness for the Office of the Director of Public Prosecutions (DPP) in a trial where an untrained acupuncturist allegedly committed two counts of sexual intercourse without consent and assault with act of indecency to a patient. During the months prior to the trial I reviewed the police case notes and prepared my expert report. As a result of the trial the defendant was convicted and is now serving four years incarceration. This is but one example of why we

need registration – to protect the public against unscrupulous and inadequately trained practitioners. Another criminal case involving a Chinese medicine practitioner convicted of sexual assault was reported in the Sydney media this week.

When patients walk through our clinic doors for treatment they come with respect and trust – unfortunately sometimes these people are in need of protection.

Over the past few months there has been a lot of documentation produced about national registration. I have been confused but thought I had worked it all out and submitted an angry response to the Chinese Medicine Board of Australia (CMBA)'s Consultation Paper. I mistakenly thought the proposed grandparenting standard and addendum advocated that an oldie like me would not be eligible for registration because my initial training did not have a minimum of 390 hours of clinical training. I thought that if the proposed CMBA standards were accepted by the Ministers for Health I would not be eligible for registration.

When asked to write this article I jumped at the chance, being alarmed and worried at the thought of being excluded. After all, I have been on ethics committees for probably nearly 20 years, have reviewed cases from 'the practitioner's dog bit the patient' to a practitioner using a 10 cm needle on GB21 causing a pneumothorax, to which the practitioner said 'oh the patient must have bumped the needle in'. Please do not think that there are only the odd ethical issues, there are many. Because of our name, the Acupuncture Ethics and Standards Organisation (AESO\*), we receive many complaints from the public; a few about members, but many that are not. I was also a member of the AESO Executive which wrote the first submission in support of registration in 1983.

When I started to write this article I realised that I was not entirely clear about the whole process. If the Ministers approved a standard requiring everyone to have completed 390 hours of undergraduate clinical training – would it be too late to appeal? Did we need a campaign, did we need to contact our local members, the Greens, the Democrats, the Senate, the media ... everyone?

With a recent background in science (Master of Science, by Research) my desire for facts, truth and accuracy won over emotion and I made a few phone calls to ensure that anything I committed to print was accurate, trustworthy and reliable. I realise that many of my veteran colleagues are like me – a little nervous, anxious and fearful and I did not want to add to this unnecessarily.

I now understand that the national law and the proposed standard provides for a clear pathway for legitimate practitioners

to gain registration. If the final standard does not render our qualifications to be adequate (a fact we do not know yet as the CMBA may have modified its proposed standard based on the consultation feedback, for submission to the Ministers) experienced practitioners like myself can apply under the Health Practitioner Regulation National Law Act 2009, section 303(1)(c).

This section says:

*Qualifications for general registration in relevant profession*  
*(1) For the purposes of section 52(1)(a), an individual who applies for registration in a relevant health profession before 1 July 2015 is qualified for general registration in the profession if the individual—*  
*(c) has practised the profession at any time between 1 July 2002 and 30 June 2012 for a consecutive period of 5 years or for any periods which together amount to 5 years.*

My understanding is that those applying for registration through grandparenting will have to show evidence of practice as required by this section, and the CMBA is also requiring evidence of competency (per s.52(1)(b)(ii) of the National Law) – an addition I fully support.

According to the Consultation Paper, evidence of practice can be readily shown according to the list of items in Schedule 1 of the proposed standard (for example, health fund rebate status, professional indemnity insurance, membership of association, etc.) and evidence of competency, according to Schedule 2 it is proposed to be shown through various criteria including a statement from a Chinese medicine professional association which states that the practitioner's competency has been assessed against criteria acceptable to the CMBA (but this standard has not been set at this stage).

I believe the CMBA has an enormous job within a very restrictive timeframe. I believe traditional Chinese medicine practitioners are well represented on the CMBA and I wish them well in their onerous task.

I hope this article demystifies and resolves some of the concerns held by my fellow veteran practitioners. I personally recommend to my colleagues that they:

- read all consultation (and final) documents very carefully;
- attend any information sessions offered by the CMBA or our association;
- ask questions and make sure you have a full and accurate understanding of what is being proposed;
- engage actively and professionally with the consultations we are invited to participate in.

[\* Editor: AESO merged with AACMA in 1995.]

## What national registration means to me – as a recent-to-clinic practitioner

**By Peter Kington**

In private practice, Brisbane

Each day I get in my car, drive to my clinic, open the door, answer the phone and treat people. My daily focus is always on the health outcomes of my clients and this includes offering my clients a clean treatment space with safe practice.

I imagine, when the national registration scheme comes into effect on 1 July 2012, that this routine will not change. It is most unlikely my clients will have the remotest idea that, overnight, I have gone from being a practitioner working in an unregulated health field, to suddenly being 'regulated' by virtue of my inclusion on the national register of acupuncturists.

What might be different are the services I offer in my practice. I am a four-year trained Chinese medicine practitioner. My major was acupuncture and I have a minor study in herbal medicine. My practice has always included acupuncture and where appropriate, the prescription of patent herbal pills, capsules or granules. Depending on my ability to satisfy the standard set in the draft grandparenting guidelines, I may not be able to continue my Chinese herbal medicine practice post 1 July 2012. I believe the Board's definition of a Chinese medicine herbalist is exclusive and makes it difficult for well-trained people like me to be fully grandparented into the new scheme.

Our profession is being included in the national registration scheme because we are considered dangerous enough in our scope of practice to warrant inclusion. Ironically, the public may not necessarily see it this way. Often their perception is that inclusion in such a scheme amounts to an endorsement; that somehow our profession is more valid due to its inclusion in the scheme. It makes me wonder whether, in time, being party to the national registration scheme will lift the esteem to which the public and others, view our profession? Perhaps this will be the first step towards inclusion in the myriad of government-funded health schemes.

With national registration I will be able to take my skills to any part of the country and practice. For the public, it means that when they seek treatment from an acupuncturist or Chinese medicine herbalist, they will be treated by someone whose qualification to call themselves an acupuncturist or herbalist has been tested against a national standard. Unfortunately, the thorny issue of 'dry needling' will not be resolved as the registration scheme currently stands, but as a profession we

have it in us to continue the fight against this, in the name of public safety and professional integrity.

Overall, national registration is a very good thing and, being the optimist I am, I am confident that once the process of registration is complete and we all adjust to the new way of doing business, the opportunities for our profession will far outweigh the threats we face. Right now, it is the uncertainty about my practice's future and the very real financial impact that will have on me, which is occupying my thoughts. Only time will tell.

## What national registration means to me – as an overseas-trained practitioner

**By Lily Feng**

In private practice, Adelaide

The introduction of the national registration system for Chinese medicine in July 2012 means official recognition of traditional Chinese medicine practice in Australia. I believe it is the outcome of several decades of practitioners and professional bodies' persistent advocacy. I am happy to be part of this historical change for the profession.

As a TCM practitioner who was educated, trained and gained clinical experience in China and then coming to practise in Australia, I have witnessed many changes including the growth of the profession and especially the increasing acceptance and popularity from the public. This has encouraged me to continuously expand and improve the services I provide.

My TCM educational background from China has helped me to form the vision that TCM is not only an artistic endeavour to help treat illnesses, but also an effective approach to help people learn health prevention which has been a guiding principle for my clinical work. I hope that the national registration system will benefit the profession by providing a better relationship between the public and Chinese medicine practitioners.

It has been an advantage for me to understand Chinese language. This allowed me to act as a bridge between fellow practitioners in both Australia and China in terms of exchange of professional information and much more. During the years I have lived in Australia, I have come to understand both medical systems. I believe there is something I can contribute to the profession within the national registration system. I am looking forward to a new era with practitioners from different cultural backgrounds working together towards the same goal.