

## Chinese Medicine Board

---

May 2012

### Submission Acupuncture Endorsement Registration Standard – Medical Board of Australia (MBA)

#### INTRODUCTION

The Chinese Medicine Board of Australia (CMBA) appreciates the opportunity to comment on this draft standard. Acupuncture is a regulated health practice based on its assessment against the AHMAC Criteria. This means that it is considered potentially harmful enough to warrant statutory regulation to ensure that only appropriately qualified, competent and suitable persons can practise acupuncture using the protected titles and making the restricted claims.

The MBA draft standard attempts to find a methodology to “grandparent” existing medical practitioners. The CMBA supports the concept of “grandparenting” of existing practitioners when a new regulatory scheme is introduced. This occurred in 2002 when Chinese medicine was first regulated in Victoria and is repeated now in other states and territories with the introduction of four new professions into the National Scheme. Grandparenting involves special arrangements to ensure practitioners legitimately practising are not unjustly disadvantaged.

#### SUMMARY

In the view of the CMBA consistency of standards across the professions, especially with regard to the same treatment services, is paramount and in the public interest.

Acupuncture is a division of the register for Chinese Medicine. For other Boards such as the Medical Board of Australia, the Physiotherapy Board of Australia and Chiropractic Board of Australia, etc. it is an endorsement option and those Boards need to develop their respective endorsement standards.

The CMBA supports the concept of grandparenting of existing practitioners. It has concerns however about:

- an apparent *requirement* in the legislation for an accreditation standard
- the proposal to deem “2 years practice” (measured as 25 episodes of acupuncture treatment) as equivalent to an approved qualification
- the absence from the proposed standard of any assessment of competence

The CMBA believes that the existing grandparenting arrangement outlined in s.303 of the National Law should be applied consistently across professions and suggests an alternative approach for consideration by the MBA.

The CMBA is aware that members of the public do not distinguish between “registered” and “endorsed” acupuncturists and that they would expect them to be comparatively qualified and experienced. Concurrent, multiple acupuncture education and practice standards will create confusion for the public.

#### THE LEGISLATION

##### **General**

It is noted that certain courses which were approved by the Medical Practitioner Board of Victoria in the Victorian system for endorsement of medical practitioners to practise acupuncture, have “transitioned” to the national system. There are two courses:

- Graduate Certificate in Medical Acupuncture (Monash University)
- The AMAC – Qld and AMAC – NSW combined course<sup>1</sup>

---

<sup>1</sup> 250 hours course mainly “self-directed” study, inclusive of 30 hours “mentorship” which seems to be the clinical training.

The CMBA notes that the standards were not published as an accreditation standard<sup>2</sup>. Section 38(3) of the National Law says, “A registration standard may not be about a matter for which an accreditation standard may provide”. The CMBA believes there must therefore be an accreditation standard and that this should be developed via the usual processes as for other accreditation standards developed by Boards.

The National Law has special provisions, in section 303, for the purposes of “grandparenting” the four new professions from 2012 – 2015. The Grandparenting Standards for these four new professions, including Chinese medicine, were approved by the Australian Health Workforce Ministerial Council in December 2011 and announced in early 2012. A copy of the Grandparenting Standard for Chinese Medicine with specific details about acupuncture is attached.

### **Specific**

Section 97(1) allows for a Board to endorse the registration of a registered health practitioner as being qualified to practise as an acupuncturist if the practitioner:

- (a) holds either of the following qualifications relevant to the endorsement—
  - (i) an approved qualification;
  - (ii) another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification;

AND

- (b) complies with an approved registration standard relevant to the endorsement.

It is unclear which aspects of the MBA’s requirements, as set out in this draft standard, belong in part (a) and which belong in part (b).

### **THE DRAFT STANDARD**

The proposal is to accept:

- 25 Medicare claims between 1 July 2010 and 30 June 2012

OR

- Accreditation by the Joint Consultative Committee on Medical Acupuncture (and compliance with CPD) instead of an approved qualification.

It appears this is being applied per Section 97(1)(a)(ii).

Normally this section would be referenced/linked to an accreditation standard.

The CMBA questions the proposal that 25 Medicare claims over a period of two years (between 1 July 2010 and 30 June 2012), plus relevant CPD, potentially claimed by persons without adequate training, is genuinely “another qualification that, in the Board’s opinion, is substantially equivalent to, or based on similar competencies to as approved qualification”. That is, the single evidence of seeing approximately one acupuncture patient per month is deemed to be qualified and competent in acupuncture practice. In the absence of an accreditation standard how can this judgment be made or in the alternative, how does this compare to even the “lesser” of the two approved courses?

### **Practice Evidence**

The proposed evidence of 25 Medicare claims between 1 July 2010 and 30 June 2012 would enable a medical practitioner with no acupuncture qualifications or credentials at all (per item number 173), to perform 25 “acupuncture treatments”<sup>3</sup> between now and 30 June 2012 and gain endorsement.

---

<sup>2</sup> An accreditation standard is a standard used to assess whether a program of study, and the education provider that provides the program, provide persons who complete the program with the knowledge, skills and professional attributes to practise the profession in Australia. Accreditation standards are developed and approved under Division 3 of Part 6.

<sup>3</sup> For the purpose of payment of Medicare benefits in Australia “acupuncture” is interpreted as including treatment by means other than the use of acupuncture needles where the same effect is achieved without puncture, eg by application of ultrasound, laser beams, pressure or moxibustion, etc.

The intent of the grandparenting standards in this respect is to ensure that applicants who are legitimately practising in the profession are not unfairly disadvantaged. In the interest of consistency with the National Law and consistency between the health professions, CMBA recommends that a practice period of five years between 1 July 2002 and 30 June 2012 would:

- be consistent with the existing transitional arrangements and the national law requirements
- provide better public protection

#### ***CPD Evidence***

The CMBA supports the proposal to also require evidence of “relevant CPD” during the relevant period of practice which should be five years, consistent with the legislation and the approach applied to other health professions.

The CMBA supports the proposal to set minimum acupuncture content for ongoing CPD for endorsed acupuncturists. This is particularly important for those without any formal qualification in acupuncture.

#### ***Competence Evidence***

Where an applicant is relying on evidence of practice to qualify for registration per s.303(1)(c), in light of the identified risks associated with the regulated practices (acupuncture and Chinese herbal medicine) the CMBA additionally decided to require evidence of competence.

The CMBA notes that the MBA does not propose to assess competence, as is the case in the Chinese medicine grandparenting standard. Given the issue of risk, the CMBA recommends that the MBA should address the issue of competence. If it contemplates endorsing practitioners with no qualifications at all, or very minimal qualifications<sup>4</sup>, it might consider carefully whether the practitioner should be endorsed to practise acupuncture and use the relevant protected title.

#### ***Time Limit***

The CMBA agrees with MBA that any “Grandparenting” arrangements should be limited to applications received before 1 July 2015

#### **ALTERNATIVE OPTION**

In Victoria, a number of Boards which endorsed their practitioners for acupuncture, referred applications to the Victorian Chinese Medicine Registration Board for opinion/assessment against the Chinese Medicine Grandparenting standard. This was a successful mechanism which assisted those Boards to make endorsement decisions. The CMBA would be open to such an arrangement with the MBA.

Yours sincerely,

Professor Charlie Xue

Chair

Chinese Medicine Board of Australia

#### **ATTACHMENTS**

Attachment 1: CMBA Grandparenting Standard

Attachment 2: Comparison table (internal document)

---

<sup>4</sup> Which are well known to have been completed by many medical practitioners in the form of week-end and other short acupuncture courses

### Authority

This standard was approved by the Australian Health Workforce Ministerial Council in December 2011 pursuant to the *Health Practitioner Regulation National Law Act*, as in force in each state and territory with approval taking effect from 1 July 2012.

### Summary

Under the National Law practitioners who were registered on 30 June 2012 with the Chinese Medicine Registration Board of Victoria will automatically transition to the new national registration and accreditation scheme on 1 July 2012. Registration under the national scheme is required in all states and territories of Australia.

Chinese medicine practitioners who do not automatically transition into the national scheme on 1 July 2012 must apply to be registered to practise as a Chinese medicine practitioner.

Under section 52 of the National Law, an individual is eligible to apply for general registration if they have successfully completed a qualification recognised under the National Law as an approved program of study, or if they hold an overseas qualification which is considered by the Board as equivalent to an approved program of study.

Section 303 of the National Law, sets out the 'grandparenting' provisions for individuals to be eligible to apply for registration to the profession but who do not hold an academic qualification gained by completing an approved program of study. These provisions apply until 30 June 2015.

The intent of the grandparenting provisions 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 current state or territory registrants or do not hold a qualification obtained by completing an approved program of study.

The Board may decide to impose conditions on registration.

The Board will assess applications for general registration under the grandparenting arrangements on their individual merit and if unsure about their eligibility practitioners are encouraged to apply.

### Scope of application

This standard applies to all applicants for general registration under section 303 of the National Law and sets out the qualification requirements for general registration per section 303 from 1 July 2012 until 30 June 2015.

Registration under the national scheme is a requirement in all state and territories in Australia.

### Requirements

Practitioners may apply for registration within one or more of the following divisions of the National Register:

- Acupuncturists
- Chinese herbal medicine practitioners
- Chinese herbal dispensers.

An applicant for general registration must meet the eligibility requirements of the National Law, including meeting the requirements of the approved mandatory registration standards and any requirements of the Board for supervised practice or any examination or assessment.

The qualifications to obtain general registration are set out in section 53 of the Act. However, existing practitioners who do not qualify under section 53 may be eligible to practise per the special rules that allow the National Board to register competent practitioners during the first three years.

Section 303(1) of the National Law states that for the purposes of section 52(1)(a), an individual who applies for registration as a Chinese medicine Practitioner before 1 July 2015 may be qualified for general registration in the profession if the individual:

- a) holds a qualification or has completed training in the profession, that the National Board considers is adequate for the purposes of practising the profession; or
- b) holds a qualification or has completed training in the profession, and has completed any further study, training or supervised practice in the profession required by the Board for the purposes of this section; or
- c) has practised the profession at any time between 1 July 2002 and 30 June 2012 for a consecutive period of 5 years or any periods together which amount to 5 years.

Section 303(1) of the National Law is referred to as the grand-parenting provisions.

### Assessment of applications for general registration under grand-parenting provisions

#### 1. For applicants making application under 303(1)(a)

A relevant course of study that is accredited at Bachelor degree level (or higher) under the Australian Qualifications

Framework (AQF) (assessed by AEI-NOOSR), or equivalent.

The Board will publish on its website, a list of courses known to meet these requirements.

### 2. For applicants making application under 303(1)(b)

A qualification and any further study, training or supervised practice which is broadly consistent with a minimum of Advanced-Diploma-level in the Australian Qualifications Framework (AQF).

Such qualification/s and/or further training or supervised practice must include:

#### For practitioners (acupuncture and Chinese herbal medicine)

- a) a clinical component which is
  - > structured (clinical learning designed to be progressive through the various stages of the program of learning, inclusive of a comprehensive range of clinical presentations that cover all the clinical areas),
  - > directly supervised by practitioners with appropriate qualifications, clinical experience, and understanding of the curriculum and teaching requirements
  - > formally assessed (formative and summative, addressing all clinical skills, against clear learning outcomes)
  - > minimum 200 hours

OR

2 years practice evidence, and

- b) training in Chinese medicine theory including differential diagnosis and the design of individualised acupuncture and/or Chinese herbal medicine prescriptions; and
- c) training in biomedical sciences (i.e. anatomy, physiology, microbiology, pharmacology, pathology, clinical diagnosis and therapeutics); and
- d) ethics, jurisprudence, and practice management.

#### For dispensers

- a) practical training such as:
  - > courses that aimed to train Chinese herbal dispensers and/or Chinese herbal pharmacists (e.g. courses in China or elsewhere that specifically trained people to work in Chinese herbal pharmacies, manufacturing plants etc); and

- > courses that aimed to train Chinese herbal medicine practitioners, and that included a substantial amount of education and training in herbal dispensing
- > phytochemistry and pharmaceuticals; and
- > dispensing Chinese medicinal substances: theory and adequate practical training; and
- > ethics, jurisprudence, practice management.

The Board will publish on its website a list of course known to meet these requirements.

### 3. For applicants making application under 303(1)(c)

#### Required Practice Evidence

Evidence of practice within the profession at any time between 1 July 2002 and 30 June 2012 for a consecutive period of 5 years or any periods which together amount to 5 years. The evidence of practice must represent 5 years of practice within the division of registration being applied for.

The evidence that the Board considers acceptable proof of practice is included as [Schedule 1](#).

#### Required Competence Evidence (section 52(1)(b)(ii))

##### Acupuncture

To demonstrate competence an applicant must provide evidence that they are competent to provide the full range of acupuncture intervention methods to a member of the public who consults them for such a service. This would be expected to include the differential diagnosis of the person's condition and the design of a treatment specific to the person's condition and adequate knowledge to ensure the safe insertion, manipulation, removal and disposal of needles and other stimulation methods such as electro-acupuncture and cupping.

##### Chinese herbal medicine

To demonstrate competence an applicant must provide evidence that they are competent to provide the full range of administration methods and routes in Chinese herbal medicine to a member of the public who consults them for such a service. This would be expected to include the differential diagnosis of the person's condition and the design of a herbal formula specific to the person's condition, and adequate knowledge to ensure the safe selection, combination and dispensing of herbs and proper instructions to the patient about dosage etc. The patient could also reasonably expect that a person who is registered as a Chinese herbal medicine service would understand the properties and application of the herbs individually as well as in formulae in various forms such

as decoction, pills, capsules etc. The non decoction administration may involve use of raw herbal powders (traditional preparation of pills) and extracted granular that involve the appropriate use of solvents such as ethanol.

The evidence that the Board considers acceptable proof of practice is included as Schedule 2.

### Documentation

All documents must be certified copies of the original. Refer to the *Certified Documents* (02/2011) guidelines accessible on the AHPRA website at <http://www.ahpra.gov.au/Registration/Registration-Process/Certifying-Documents.aspx>.

All documents in foreign languages must be translated by a certified translator. Refer to <http://www.ahpra.gov.au/Registration/Registration-Process/Translating-Documents.aspx>

### Other Powers

The Board may require an applicant to provide additional evidence of their qualifications, training, further study, supervised practice or length of practice.

The Board may also investigate an applicant including requesting the applicant to undertake an assessment in accordance with section 80(1) of the National Law.

### Conditions and refusal of registration

When registering practitioners for general registration s.52(2) of the National Law enables the Board to impose conditions.

The Board may refuse to grant registration on any of the grounds set out in s.80(1)(c) of the National Law.

### Definitions

**National Law** means the *Health Practitioner Regulation National Law Act*, as in force in each state and territory

**Practice** means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes working in a direct nonclinical relationship with clients; working in management, administration, education, research, advisory, regulatory or policy development roles; and any other roles that impact on safe, effective delivery of services in the profession and/or use their professional skills.

### Review

This standard will commence on 1 July 2012 and cease on 1 July 2015.

### SCHEDULE 1

#### PRACTICE EVIDENCE – Acupuncture and Chinese herbal medicine

#### Two separate pieces of evidence required for each claimed year of practice

Type of Evidence	Acupuncture	Chinese herbal medicine	Details and explanations
Taxation records	Yes	Yes	Documentation which clearly identifies occupation as or earnings from the relevant area of practice
Health Fund (or other third party payer) Rebate Status	Yes	Yes	Evidence of health provider rebate status, including details of health fund, category, and provider number. This information varies between funds, years, etc. Whether this evidence satisfies the Board's evidentiary requirements will be assessed on a case-by-case basis. Only one private health fund Provider Rebate Status per year can be claimed as approved evidence.
Evidence related to registration or licensing with local council for skin penetration	Yes	No	Documents will vary according to relevant State legislation.
Evidence of attendance at continuing professional development activities specific to division applying for	Yes	Yes	CPD activities which relate to Chinese medicine generally (i.e. not modality specific) will be accepted for one division only in a given year
Invoices or statement from supplier of Chinese herbs	No	Yes	If these documents are in Chinese, translations are not required. Certified copies of Chinese originals are sufficient.
Invoices or statement from supplier of Acupuncture needles	Yes	No	If these documents are in Chinese, translations are not required. Certified copies of Chinese originals are sufficient.
Professional Indemnity Insurance	Yes	Yes	Must be in the name of the applicant and covering the specific area of practice
Membership of a professional association relevant to the specific area of practice	Yes	Yes	Only one membership of a professional association can be claimed per year as approved evidence.
Written Record from an Employer	Yes	Yes	The record must state the period of time employed, title and that your duties related to the specific area of practice. Practitioners who have worked in China: where a certified copy is received of a notarised statement of employment issued by the relevant Chinese authorities, a second piece of approved evidence may not be required for that year.
De-identified Patient records	Yes	Yes	10 de-identified, certified copies of real patient records for each Division being applied for. Where these documents are in Chinese, translations are NOT required. Each patient record/file MUST contain at least the following information: <ul style="list-style-type: none"> <li>a) date/s of consultation</li> <li>b) first name of patient only (or other non-identifying record of patient name such as initial)</li> <li>c) presenting condition including signs and symptoms</li> <li>d) treatment provided (acupuncture and/or Chinese herbal medicine )</li> </ul>
Evidence of continuing professional development activities	Yes	Yes	Must be relevant to the division in which you are applying.



**PRACTICE EVIDENCE – Chinese herbal dispensing**

**Two separate pieces of evidence required for each claimed year of practice**

Type of Evidence	Details and explanations
Receipts for the purchase of raw herbs and/or single herbs in powdered or extract form	At least 3 invoices or receipts required for each year claimed
Evidence of the operation of a dispensary	Could be local council permit, business name registration, etc.
Evidence of the practice of Chinese herbal dispensing that involved the dispensing of herbal formulas that comprised raw herbs (e.g.)	De-identified patient-related records with prescriptions and details of dispensing.
Letter from employer indicating employment as a dispenser of Chinese herbs in a dispensary, clinic or shop	The record must state the period of time employed, title and that your duties related to the specific area of practice. Practitioners who have worked in China: where a certified copy is received of a notarised statement of employment issued by the relevant Chinese authorities, a second piece of approved evidence may not be required for that year.

### SCHEDULE 2 – COMPETENCE EVIDENCE

#### 1. EVIDENCE FOR ACUPUNCTURE AND/OR CHINESE HERBAL MEDICINE

##### General requirements

Evidence provided must demonstrate:

- whether the applicant's practice was in acupuncture and/or Chinese herbal medicine;
- the knowledge and application of Chinese medicine differential diagnosis;
- the design of a treatment specific to the person's condition.

For acupuncture the evidence must demonstrate:

- design and use of individualised acupuncture prescriptions

For Chinese herbal medicine the evidence must demonstrate:

- design and use of individualised Chinese herbal medicine prescriptions.

##### Forms of Evidence (must provide one of the following)

###### Statement from a Chinese medicine professional association

The professional association must show that it has assessed the practitioner's competence against criteria acceptable to the Board.

###### Statement from an Employer

The employer must show that they are qualified and have assessed the practitioner's competence against criteria acceptable to the Board.

###### Patient Records - 20 de-identified patient records for each Division being applied for.

You must supply a **certified copy** of the original patient record/files and the original patient record/file must have been recorded at the time that you treated the patient (or immediately thereafter).

Each record must contain at least the following information:

- a) Date(s) of consultation;
- b) First name of patient only (or other non-identifying record of patient name, e.g. patient's initials);
- c) Presenting condition;

- d) Chinese medicine differential diagnosis;
- e) Record of treatment provided, being:
  - (i) for Acupuncturists: the design of an individualised acupuncture treatment plan. This means an acupuncture/moxibustion point prescription that accords with the Chinese medicine diagnosis and demonstrates the application of principles of point selection as applied to the individual patient, and/or
  - (ii) for Chinese Herbal Medicine Practitioners: an individualised Chinese herbal medicine prescription, being a Chinese herbal prescription that accords with the Chinese medicine diagnosis and demonstrates the application of the principles of Chinese herbal medicine formulae construction as applied to the individual patient. The Chinese herbal medicine formulae can employ Chinese herbs in unprocessed or processed forms.

#### 2. EVIDENCE FOR CHINESE HERBAL DISPENSING

##### 1. General requirements

Applicants must provide an explanation explain how they have learned:

- Principles of Chinese medicine
- Chinese language terminology for Chinese medicine
- Materia medica
- Chinese medicinal formulae
- Dispensing Chinese medicine substances
- Overview of Classics
- Supervised dispensing practice
- Supervised dispensing internship
- Pharmacology & Toxicology
- Phytochemistry

##### 2. Forms of Evidence (must provide one of the following)

###### Statement from a hospital, university or similar institution regarding the person's competence as a Chinese herbal dispenser.

Evidence from such institutions must be provided by someone with general authority such as an executive of a hospital or the equivalent of a the institution's department of "Education and Training" 教务处 or 医教处 or a "Human Resources Management" department 人事处.

### **Statement from employer regarding the person's competence as a Chinese herbal dispenser.**

The employer must show how they have assessed the dispenser's competence against criteria acceptable to the Board

### **Evidence of completion of an examination in Chinese herbal dispensing**

The examining body and examination process must be acceptable to the Board.

### **3. EXAMINATION**

Applicants who do not have sufficient formal qualifications and/or evidence of practice and/or evidence of competence can elect to sit a Board-approved examination in:

- Acupuncture, and/or
- Chinese herbal medicine , and/or
- Chinese herbal dispensing