

SUBMISSION
CHINESE MEDICINE BOARD OF AUSTRALIA CONSULTATION PAPER, SEPTEMBER
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GRANDPARENTING PROVISIONS

*“The grandparenting provisions are broad. 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.”*

(Draft Standards, September 2011, p37)

PREMISE OF SUBMISSION

This submission relates to the draft grandparenting provisions (henceforth referred to as “the provisions”) as they relate to the definition of a practitioner of “Chinese Herbal Medicine” (CHM).

This submission will argue that through circumstance, some existing and legitimate Chinese medicine trained practitioners will be unjustly disadvantaged by the grandparenting requirements and therefore, special provision needs to be made to accommodate these practitioners to shield them from unjust disadvantage.

Definition of Practitioner in this Submission

The definition of a practitioner of herbal medicine includes Chinese medicine practitioners who have graduated with an approved, four year Bachelor’s degree in Acupuncture. This course of study also included:

- The materia medica of Chinese individual herbs;
- The materia medica of Chinese herbal formulae;
- Supervised and assessable (ie outlined in the assessment requirements for that subject, at that level of study) prescribing and dispensing of patent herbal pills and capsules containing extracted granules (and therefore, by extension, loose granule formulae).

This definition does not include people from other professions who are seeking to be registered in the division of acupuncture and CHM. It is exclusive to Chinese medicine practitioners who have undertaken a four year bachelor’s degree in Chinese medicine, with a major in Acupuncture.

Definition of Practitioner of Chinese Herbal Medicine as per the Grandparenting Provisions

The provisions state (p 43) that a practitioner of CHM be “...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”.

Further, the draft provisions identify that practitioners of CHM be able to demonstrate:

- Differential diagnosis of a client’s condition
- The design of a specific herbal formula
- Safe selection, combination and dispensing of herbs

- Provide proper instructions about dosage
- Knowledge of the properties and application of herbs:
 - Individually
 - Various other forms
 - Decoction
 - Pills
 - Capsules

The standards also seek to define herbal medicine as including “raw herbal powders (traditional preparation of pills) and extracted granular that involve the appropriate use of solvents such as ethanol”.

DISCUSSION

As they exist, these standards will disadvantage *legitimate practitioners* with a bona fide, four-year degree in Chinese medicine (acupuncture) who, by virtue of their course of study, have built a practice which includes the prescribing and dispensation of CHM.

The difficulty with the draft standards is that the definition of a CHM practitioner only assumes training in the prescribing of raw herbs as being the only standard necessary.

The standards do not take into account those practitioners who have four year Chinese medicine (acupuncture) degrees, which have included all the provisions listed in the standards that such degrees should have (p 41), but with a “minor” study in herbs. Graduates of such programs clearly have sufficient training and assessment in herbal medicine to be able to competently and safely prescribe “patent” Chinese herbal medicines.

Such “patent” medicines include pills, capsules containing granules of extracted herbs, loose granule formulae and individualized granule formulae (with or without modification).

Therefore, for the purposes of grandparenting, the definition of a CHM practitioner needs to account for those people without raw herbal medicine degrees, but who can demonstrate a four year acupuncture degree in Chinese medicine, where the Chinese herbal medicine materia medica of individual herbs and formulas, was studied, clinically applied and competently assessed.

Further, applicants for registration in the division of CHM practitioner, should have the opportunity, beyond providing twenty de-identified patient cards/case histories, to demonstrate how continuing professional education has enhanced their knowledge of herbal medicine and the safe dispensation of same.

Finally, the provisions strike the author of this submission as being Sydney-Melbourne focused for it is in these two cities where universities offer degrees in CHM and therefore little consideration has been given to the impact of these grandparenting provisions on those who live outside these two cities.

Those from Brisbane, where this author resides, Adelaide and Perth in choosing where to study, have not had the opportunity of a local provider of education in raw herbal medicine. The best alternative was a four year Health Science degree in Chinese medicine (acupuncture) with a minor study in herbal medicine. The degree included extensive study in the biosciences, anatomy and physiology and Western health sciences.

CONSEQUENCES OF THE STANDARDS AS THEY CURRENTLY STAND

It is worth considering the consequences of any decision to disallow acupuncturists from selling patent herbal formulas.

- a) **Public safety:** with no prohibition against other sectors of the community selling patent herbal formulas, there is increased risk to the public that unqualified practitioners will in fact be selling these products – exclusively. Without practitioners trained in Chinese medicine to resell their stock, herb companies will be tempted to repackage their product, remove any references to Chinese medicine therapeutic actions and indications and make these products more available to non-TCM trained practitioners to sell (for example, naturopaths). *The irony is that given registration is designed to protect the public from unqualified practitioners, all this action does is remove a legitimately qualified group of clinicians from the market place – a gap which will be filled by a largely unqualified group, should herb companies redesign and rebrand their product, thereby placing the public at greater risk.* Similarly, without herbs to sell, acupuncturists may source other types of product to sell and there is the potential they will, themselves, be unqualified to sell these products.
- b) **Loss of tradition:** as a result of the above, there is a threat to the tradition of CHM as manufacturers will potentially redesign their product to suit non-TCM trained practitioners. With fewer practitioners to sell their product, the TCM scholarly and clinical tradition behind the matching of a herbal product to a diagnosis to a patient will be lost.
- c) **Fair Trade:** By preventing Chinese medicine-trained acupuncturists with bona fide qualifications from prescribing and dispensing patent herbs, a matter for fair trade is created as there will be no equal prohibition against the likes of health food stores, naturopaths and online retailers restricting their ability to sell these products.
- d) **Financial disadvantage:** Practitioners risk being financially disadvantaged in three key ways:
 - a. **Loss of income.** In the author's practice, the sale of herbal medicine (as a percentage of the total sales of acupuncture and herbs combined) for the period 2008 – 2011 is as follows: 2008, 15.5%; 2009, 9.5% (this was the financial year the GFC hit and while acupuncture sales grew, herb sales decreased); 2010, 13%; 2011, 18.5%. Based on current sales for the first quarter of 2012, herbs comprised 17.5% of sales. This author has several costs of doing business, amongst which paying for a commercial lease is the most expensive. The author's business model, under constant review but developed three years ago, was built on the premise of herbs being a substantial source of income. Removing herbs from sale will therefore place an undue stress on his business model. The lease is due for renewal at the end of 2013 – 18 months after the commencement of national registration.
 - b. **Loss of stock.** Presumably, come 30 June 2012, all stock will need to be removed from sale. In the absence of other practitioners to sell this stock to, any remaining stock will be 'written off'. Currently, in this author's practice, there is approximately \$5000 of stock (at cost price).
 - c. **Damage to business value.** The author has invested thousands of dollars in developing a clinical practice which specializes in reproductive health. Without herbs to sell in this practice, the business becomes much less viable – it loses its value for any future resale potential.

- e) **Diminished clinical outcomes:** as a specialist clinic, the satisfaction our clients experience comes as a result of the combined approach to practice the author of this submission takes in his practice. This combined approach involves a combination of acupuncture therapy and herbal medicine therapy. In the absence of herbs to complement their treatment, clients are less inclined to get the results they currently experience.
- f) **Diminished reputation:** when practitioners are required to cease prescribing and selling herbs, clients currently under their care will rightly question the bona fides of their practitioner if they are suddenly not permitted, by law, to dispense a product they had previously been permitted to dispense. This has the potential to lower the professional reputation in these clients' eyes and may reduce the potential for word-of-mouth referral from these clients.

SCHEDULE 2 – COMPETENCE EVIDENCE, CHINESE HERBAL MEDICINE

The standards require, for those seeking registration in the division of Chinese Herbal Medicine, to supply evidence which demonstrates “design and use of individualized Chinese herbal medicine prescriptions” (p 45).

The requirement to provide 20 de-identified patient records could be problematic as this requires practitioners to produce individualized herbal medicine prescriptions. This requirement excludes practitioners who prescribed herbal pills, capsules or pre-mixed formulas from applying for registration in this division as they cannot individualize such formulas.

In the absence of an employee to vouch for the practitioner's qualifications and in the absence of previous professional association recognition of registration under “herbal medicine”, these provisions largely exclude Chinese medicine trained acupuncturists who prescribe patent medicines from seeking registration in this division. The impact of these requirements and the subsequent recognition of title, has the potential to inflict any or all of the consequences listed above.

RECOMMENDATIONS

- a) Redefine the definition of “Chinese Herbal Medicine” practitioner to include Chinese medicine trained acupuncturists with a four year degree with a “minor” study of herbal medicine
- b) Allow acupuncturists wishing to be registered as CHM practitioners to submit other forms of “practice evidence”. Examples could include:
 - a. Subject outlines from tertiary courses undertaken which outline learning outcomes and assessment requirements to demonstrate formal herbal medicine training
 - b. Certified copies of CPD seminars where herbal medicine has been studied
 - c. Certified copies of certificates of achievement from industry-based education providers (eg: Cathay herbs run an extensive herbal medicine course)
- c) If needs be, create separate divisions: CHM – raw herbs and CHM – processed herbs.

CONCLUSION – PERSONAL REFLECTION

Thank you for considering this submission.

I understand the purpose of registration is to protect the public and this is a move I fully support.

However, I also hold grave concerns for my ability to continue practicing should I be disallowed from selling patent herbal pills, capsules and granulated formulas.

The whole idea of grandparenting is to protect those currently in practice from loss of income and reputation and to help them maintain good standing beyond the registration process.

If these draft standards are adopted in their current form, there will be a significant section of the TCM community who will be financially and professionally disadvantaged by registration. In addition to this, there is the potential for the general public to be placed at considerable risk as under-qualified practitioners will be able to dispense a product which acupuncturists who currently prescribe herbs will not be allowed to dispense.

Peter Kington

BHSc (Acupuncture), Cert Rem Ther (OM), MLitt, BA, GCHEd

JP(Qual – Qld)