CHINESE MEDICINE BOARD OF AUSTRALIA news

Issue 14 – July 2017

Chinese Medicine Board of Australia

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Chair's message

Welcome to the 14th edition of the Chinese Medicine Board of Australia's (the Board) newsletter.

In this edition we cover, among other things, advertising Chinese medicine services to the public. A higher standard of evidence is required to support therapeutic claims (clinical indications) made in advertising regulated health services than the evidence used for individual consultations and clinical decisions about the service you provide.

This is because advertising, as opposed to a professional patient consultation, is usually a written or broadcast statement which may be easily misinterpreted or taken out of context, is normally limited in detail, and therefore can easily become misleading.

Because of the higher standard of evidence required for public advertising, acceptable evidence to support advertising claims needs to be based on findings obtained from quantitative methodology such as systematic reviews of randomised, and high quality controlled trials.

Acceptable evidence needs to be up-to-date evidence. Generally, evidence that has not been updated for five years should be reviewed and updated to ensure currency and clinical relevance.

While traditional-use evidence forms part of the clinical evidence for Chinese medicine practice, it is not of the high standard required for public advertising. Therefore, this form of evidence used alone is not sufficient to ensure the accuracy needed for public advertising where the information is provided without any involvement of the expertise of the practitioner (such as in a clinical consultation).

Information about what is acceptable evidence to support therapeutic claims is available in the Advertising resources section on the Australian Health Practitioner Regulation Agency (AHPRA) website. More resources will be published as they are developed so refer to the website regularly.

An article in this newsletter provides more information about responsible advertising and includes a link to the Board's position statement on making therapeutic claims in advertising to the public.

Professor Charlie Xue
Chair, Chinese Medicine Board of Australia

Upcoming forums: invitation for Chinese medicine practitioners, students and stakeholders

The National Board is inviting practitioners, students and stakeholders of Chinese medicine to attend information forums being held around Australia.

MELBOURNE

Monday 24 July, 5.30 – 7pm
Citadines on Bourke
131-135 Bourke Street, Melbourne, Victoria
RSVP by 12.00 midday Friday 21 July 2017

SYDNEY

Monday 21 August, 5.30 – 7pm
Sydney Karstens
Level 1, 111 Harrington Street, Sydney

BRISBANE

Monday 25 September, 5.30 – 7pm
Brisbane Karstens
Level 24, 215 Adelaide Street, Brisbane

ADELAIDE

Monday 11 December, 5.30 – 7pm
Adelaide Karstens
19 Young Street, Adelaide

There will be a Board presentation and time for questions and discussion, then networking and light refreshments.

Please put these dates in your diary.

Chinese Medicine Board builds international regulatory partnerships to better protect the public

A Board delegation made its first ever visit to China in May 2017 thanks to funding support from an Australia-China Council (ACC) Grant.

The delegation built relationships with fellow, international Chinese medicine regulators that will have positive impact for patients and practitioners of Chinese medicine.

Board Chair, Professor Charlie Xue, said 'our discussions in China help lay the foundation for future opportunities in the region including opportunities for:

- strengthening our regulatory partnerships
- research, and
- progressing practitioner education in Chinese medicine.'

Professor Xue said one outcome of the visit was increased information-sharing about improving how complaints are managed, increasing understanding about how practitioners are registered and consultation and collaboration in the development of standards.

'The Board looks forward to continuing to work with its international partners to better deliver on its regulatory role to the Australian public and practitioners. We all face very similar challenges and while the context varies greatly, these international connections can only help with setting standards which over time will become more consistent.'

The Board is grateful to the Australia-China Council for its support through the grant scheme which creates a strong link between China and Australia, directly benefitting the Australian public.

Background

The Department of Foreign Affairs and Trade's Australia-China Council (ACC) Grants Program strengthens links between Australia and China, Hong Kong, Macau and Taiwan by supporting innovative activities to promote mutual understanding and foster stronger relations.

More information about the ACC, the grants program and the full list of successful grant recipients is available on the Australia-China Council website.

Board member terms were due to expire on 30 June 2017, but will continue temporarily

The process for enabling the Australian Health Workforce Ministerial Council to make the appointment decisions on new Board members is progressing as quickly as possible. However, despite best efforts, health ministers were not in a position to make a decision before the expiry of the current term.

Current serving members were advised that in accordance with the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law), their appointments automatically continue after the scheduled expiry for up to six months, until such time as the Ministerial Council makes appointment decisions.

Board position statement on advertising Chinese medicine services

The Board is concerned about a significant increase in the number of complaints about advertising by registered Chinese medicine practitioners and has developed a position statement on the topic: *Chinese medicine practitioners making therapeutic claims in advertising to the public*.

Responsible advertising of regulated health services is a professional and legal obligation. All advertisers must ensure that any statements and claims made about Chinese medicine practice are not false, misleading or deceptive or create an unreasonable expectation of benefits from such services.

If your advertising includes therapeutic claims about the treatment of heath conditions, you must be able to substantiate each claim with acceptable evidence to support such claims. The Board is particularly concerned about claims that acupuncture is a safe and effective treatment for turning breech babies.

Acceptable evidence needs to be up to date. Recent complaints have identified that many Chinese medicine practitioners say in their advertising (including websites) that the claims they make are based on a statement previously published by the World Health Organisation (WHO) about conditions acupuncture can effectively treat.

As the WHO document has not been updated for more than five years, the Board's advice to practitioners is that it does not meet the requirements to be acceptable evidence. Information about what is acceptable evidence to support therapeutic claims was published by National Boards in October 2016.

Because of the high standard of evidence required for public advertising, acceptable evidence to support advertising claims needs to be based on findings obtained from quantitative methodology such as systematic reviews of randomised and high-quality controlled trials.

While traditional use evidence forms part of the clinical evidence for Chinese medicine practice, it is not of the high standard required for public advertising. Therefore, this form of evidence used alone is not sufficient to enable the public to make informed choices about their healthcare decisions and hence, it is not considered adequate for public advertising where the information is provided without any involvement of the expertise of the practitioner (such as in a clinical consultation).

Under the National Law, the evidence required for claims in advertising and the evidence for clinical decisions about the services you provide are different. A higher standard of evidence is required to support claims made in advertising regulated health services. This is because in advertising, a statement may be easily misinterpreted or taken out of context, and then become misleading. There is no means for the public to clarify claims made in advertising like they can during a professional patient consultation.

Helpful advice is available on the AHPRA website that you can refer to when developing or reviewing your advertising. This includes:

- words to be wary about using in your advertising such as 'safe and effective'
- not including a lot of complicated or oversimplified information which can be confusing for patients, as you can explain more in a consultation, and
- not using evidence if it's too weak to support advertising a therapeutic claim.

Because the National Boards and AHPRA want to help make your compliance with the National Law's advertising requirements as easy as possible, additional resources were recently published to help practitioners check and correct your advertising. We recommend you refer to this content regularly to not miss future updates.

The Board is also developing examples of non-compliant Chinese medicine advertising and changes that would help it to comply with the National Law. The examples will be published on the Advertising resources section of the AHPRA website in August. Some examples common to all regulated health professions are already published.

The Board has developed a position statement to provide further clarity to both practitioners and the public on advertising by Chinese medicine practitioners.

Informed consent to treatment is crucial: consent forms are not enough

Further to our article in the September 2015 newsletter, we continue the discussion about informed consent, with a focus on the use of consent forms.

Informed consent – an overview

As a practitioner, you must obtain informed consent from a patient in relation to, and before starting, any examination or treatment.

The patient must be able to make an informed decision and provide informed consent to the proposed treatment. This follows an exchange of information: from the patient about their health, and from you about their diagnosis and the proposed treatment. The information you provide and the consent required may differ depending on the proposed treatment.

In order to gain informed consent, you need to advise the patient and help them to understand:

- the diagnosis or the most likely diagnosis based on available data
- the recommended treatment and what the treatment involves
- the risks of the treatment and possible adverse effects
- possible complications of the treatment
- any alternatives to the treatment and their benefits and risks
- the risks of not having treatment and the options to defer treatment
- the fees for and costs of the initial consultation and ongoing treatment, and
- that the patient has the right to withdraw their consent to treatment at any time.

You must clearly explain the proposed treatment plan to the patient and this treatment plan must be understood by the patient. The patient's understanding of the proposed treatment and, crucially, all material risks associated with the proposed treatment is the foundation of informed consent. If a patient does not understand the proposed treatment or the risks associated with a proposed treatment, they cannot give informed consent. It is your responsibility to ensure that informed consent is given.

Process of gaining informed consent

Informed consent is a process, rather than an event, that requires your ongoing attention. You have an ongoing legal and ethical responsibility to ensure informed consent has been obtained.

The process of obtaining consent, and ensuring the patient continues to consent, to treatment means you must provide adequate and ongoing opportunities for a patient to:

- be given adequate information about their treatment in words they can understand
- be able to pay attention to the information you provide
- ask you questions and communicate any concerns
- have information repeated if necessary
- have adequate time to consider the information and make an informed decision without any coercion or sense of pressure
- give consent and agree before you actually perform a treatment or examination, and
- withdraw their consent to an examination or treatment at any time.

During the course of treatment and as the therapeutic relationship progresses, the treatment plan and proposed treatment may change or a patient may change their mind and wish to withdraw consent. For example, a patient may become uncomfortable with the manner in which an examination or treatment is conducted, or with the treatment itself.

You must continue to ensure the patient is informed about and consents to any treatment. A patient may find it difficult to tell you that they no longer consent or wish to continue with treatment. You need to take this into account.

Use of consent forms

A consent form signed by a patient – before the consultation with a practitioner – in which they consent to treatment does not satisfy the requirements of informed consent. Reliance on a signed consent form cannot account for all the considerations required for informed consent. Prior to an initial consultation:

- you cannot foresee the diagnosis or the recommended/ proposed treatment options, and
- the patient has not been advised or informed about the proposed treatment or the potential risks involved.

Consent provided in such circumstances is therefore not fully informed. This is not to say that a signed consent form should not be used. Often such consent forms are used to formalise the process of obtaining information from the patients, including the nature of their complaint and medical history, and to record exactly what the patient has been informed of and has consented to.

However, as mentioned, the provision of such a form and the fact the patient has signed it does not discharge your obligation to obtain informed consent. Fundamentally, a form cannot replace the process of informed consent required of practitioners.

It is important that you document in the patient's clinical notes that informed consent has been obtained. This should include a summary of the information you gave the patient before consent was given.

Practitioner/patient relationship

The therapeutic relationship between a practitioner and patient may take different forms. Your conduct should be respectful, courteous and modest, reflecting the patient's rights to quality care when consulting a registered practitioner. This includes your manner of inquiry, appreciation of the patient's concerns and proper attention to the presenting problem. Although the degree of formality may reflect the familiarity and the strength of the natural rapport between you and your patient, you must always be diligent and careful when consulting and treating a patient.

Each patient seeks assistance according to their need, capacity and opportunity. For example, one person with back pain may only seek relief from discomfort, while another person may experience pain as an expression of deeper or more complex internal issues.

Patients should feel comfortable and safe and have confidence in the practitioner. This gives the patient the opportunity to convey their personal experience to the practitioner to sufficiently inform an effective treatment. Your conduct and the rapport you have developed with the patient may enhance or diminish the patient's sense of safety and confidence to speak up, including in relation to the giving of consent.

Key points

- Consent is a process and not an event. Informed consent requires clear and effective communication on an ongoing basis.
- You need to clearly explain the treatment proposed, what it entails and the risks and complications.
- It is important that there is continuing discussion as the nature of treatment changes.

The general principle of ethical practice in health care is to 'do no harm' but we need to go further than that. With an ever-changing environment of healthcare standards and practices in Australia, the failure to obtain informed consent can amount to unprofessional conduct.

Update your contact details to receive registration renewal reminders

Are your contact details up to date? Registration renewal reminders will be sent to registrants in about September.

Chinese medicine practitioners are due to renew their general or non-practsing registration by 30 November 2017.

Under the National Law, all registered Chinese medicine practitioners are responsible for renewing their registration on time each year. The quickest and easiest way to renew your registration is online. We urge you to ensure your contact

details, including your email address and mobile phone number, are current.

Update your contact information by logging in to our secure online services. Use your user ID and secure password, and follow the prompts.

If you do not have your user ID, complete an online enquiry form and select *Online Services – Practitioner* as the category type. You might also need to reset your password.

The Australian Health Practitioner Regulation Agency (AHPRA) will contact you individually about renewal on behalf of the Board. Keep a look out for the reminders to renew as confirmation that online renewal is open.

Your renewal reminder (email or hard copy) includes all the information you need for easy, online renewal of registration:

- link to access online renewal
- your 10 digit user ID
- information on how to pay, and
- details about how to reset your password.

And remember, you will be required to attest to your compliance with the mandatory standards – this might be a good time to 'stocktake' your compliance and records.

Registration standards you must meet

Professional indemnity insurance which meets the requirements of the Board's PII standard is a requirement if you hold general registration. If you cease practice you should apply for non-practising registration.

For continuing professional development, you are required to complete 20 hours including at least four hours in professional issues (formal/informal) and a minimum of 14 hours formal as part of the minimum 20 hours of CPD.

Professional ethical and regulatory issues means non-clinical issues and broadly refers to content related to ethical/lawful practice, which includes but is not limited to: ethics, communication, professional boundaries, permitted advertising, infection prevention and control, new standards, privacy, regulatory matters (such as attending the forums conducted by the Board), patient confidentiality, dealing with complaints, and so forth. Professional issues need to be at least four hours. The guidelines which support the standard state, 'CPD activities should be appropriate, in terms of content and dedication of time, to the division(s) of the Chinese medicine register in which you are registered'.

For recency of practice you must be confident that you have completed sufficient practice in the profession to maintain your competence. Practitioners who are registered in more than one division of the register are required to comply with recency of practice requirements for each division as per the standard. A practitioner who has not practised for three or more years is required to submit a proposed plan for re-entry to professional practice. The Board's assessment of a proposed re-entry plan is on an individual basis and includes consideration of the matters outlined in the schedule to the standard.

National Scheme news

COAG Health Council meeting communiqué

The federal and state and territory health ministers met in Melbourne on 24 March 2017 at the COAG Health Council to discuss a range of national health issues. The meeting was chaired by the Victorian Minister for Health, the Hon. Jill Hennessy. AHPRA CEO Martin Fletcher attended the Australian Health Workforce Ministerial Council (the Ministerial Council) meeting which brings together all health ministers throughout Australia to provide oversight for the work of the National Scheme. AHPRA and National Boards provide a regular update to the Ministerial Council on our work.

This meeting had a particular focus on the progress of amendments to the National Law which, among other things, will pave the way for the registration of paramedics from 2018, and a call for expressions of interest and nominations for first appointments to the National Board before this. Ministers also discussed further amendments to the National Law to increase the penalties for people holding out as registered practitioners (pretending to be registered when they are not).

Scheduled Medicines Expert Committee appointed

Late last year the Ministerial Council endorsed the AHMAC *Guidance for National Boards: Applications to the Ministerial Council for approval of endorsements in relation to scheduled medicines under section 14 of the National Law* (the Guidance).

The Guidance is published on the AHPRA website under Ministerial directives and communiques. It provides information for National Boards about the process for, and content of, an application to the Ministerial Council for approval of endorsement for scheduled medicines for a health profession under section 14 of the National Law.

Consistent with the Guidance, AHPRA has established a Scheduled Medicines Expert Committee (Expert Committee) whose role is to advise National Boards on the use of scheduled medicines generally, and on matters relevant to a National Board's proposal for a new scheduled medicines endorsement or an amendment to an existing scheduled medicines endorsement.

Following a call for applications, AHPRA is pleased to announce the following appointments to the Expert Committee:

- Professor Anne Tonkin, Chair
- Ms Vanessa Brotto, core member
- Dr Susan Hunt, core member
- Professor Lisa Nissen, core member
- Ms Sarah Spagnardi, core member.

The Expert Committee is expected to hold its inaugural meeting later this year. Information about the Expert Committee, including the terms of reference, will be published on the AHPRA website shortly.

Latest quarterly performance reports: October-December 2016 data

AHPRA's quarterly performance reports provide information for the public on the activities and performance of AHPRA and the National Boards in each state and territory. They contain data on a particular state or territory over a three-month period and cover our main areas of activity – managing registration, managing notifications and offences against the National Law, and monitoring health practitioners and students with restrictions on their registration. As these reports are on the performance of AHPRA and the National Boards they do not include notification data for NSW. In NSW, notifications are managed by the relevant Health Professional Council and the Health Care Complaints Commission.

AHPRA's reporting of its activity and performance is evolving. We ask for your feedback about our performance and our reporting approach. Your contribution can help ensure the continued value of our future reports. You can provide feedback by emailing: reportingfeedback@ahpra.gov.au.

Keep in touch with the Board

- Visit the Chinese Medicine Board website for news about the profession, information on the National Scheme and for registration standards, codes, guidelines, policies and fact sheets.
- Read the National Board Communiqué each month on the website: these publications inform everyone of the decisions made at the Board's monthly meeting.
- Lodge an online enquiry form.
- For registration enquiries call 1300 419 495 (from within Australia) or +61 3 9275 9009 (for overseas callers).
- Address mail correspondence to: Prof. Charlie Xue, Chair, Chinese Medicine Board of Australia, GPO Box 9958, Melbourne VIC 3001.