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Chair's message

Welcome to the ninth edition of the Chinese Medicine Board of Australia's (the Board) newsletter. Previous issues can be found on the Board's [website](#).

The Board will be holding a forum and its monthly meeting in Perth in November – please read the details in this newsletter and let us know if you are able to attend the open forum.

The final guidelines for safe Chinese herbal medicine practice will be published soon. It has been more than a year since we conducted a public consultation and an enormous amount of work and careful consideration has gone into the final guidelines. The Board is grateful for the assistance of:

- the [Technical Advisory Group](#)
- experts and industry representatives who participated in a targeted consultation in August 2015, and
- the [National Institute of Complementary Medicine](#).

We also anticipate finalising the revised guideline for health records, and a new registration standard, *Limited registration standard for teaching or research*, will be published shortly.

Lastly, we farewell one Board member and two members of the Registration and Notifications Committee – more in this issue.

Professor Charlie Xue

Chair, Chinese Medicine Board of Australia



Registration renewal

Update your contact details to receive registration renewal reminders

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

Chinese medicine practitioners are due to renew their general, non-practising registration by 30 November 2015.

Under the National Law¹, 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.

The Board urges all Chinese medicine practitioners to ensure 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.

¹ The Health Practitioner Regulation National Law, as in force in each state and territory.

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 on how to reset your password.

Make sure you renew on time because, under the National Law, there is no option for AHPRA or the Board to renew your registration after it has lapsed, without you having to complete a new application for registration.

For more information:

- visit [Registration renewal](#)
- lodge an online enquiry form, or
- for registration enquiries: 1300 419 495 (within Australia) +61 3 9275 9009 (overseas callers).

Perth forum invitation for Chinese medicine practitioners, students and stakeholders

Chinese medicine practitioners, students and stakeholders are invited to attend an information forum being held at The University of Western Australia – Claremont Campus on Monday 23 November 2015.

The National Registration and Accreditation Scheme (the National Scheme) for Chinese medicine practitioner registration has been in operation for three years. The Board is conducting a number of meetings/forums to engage more directly with the profession. This has been identified as a strategic priority for the Board.

The Board would like to invite you to this forum to discuss regulation and encourage the integration of registration standards, codes and guidelines into Chinese medicine practice.

Please register your attendance to this free event as places are limited to 90.

Date:	Monday 23 November 2015
Time:	5.30pm - 7.00pm (there will be a Board presentation and time for questions and discussion)
Venue:	Kurrajong Lecture Theatre, Ground Floor, The University of Western Australia, Cnr Princess and Goldsworthy Roads, Claremont WA 6010. See page two of this map: Kurrajong Lecture Theatre – Claremont campus .
Parking and transport options:	<p>Train and Buses – Nearest bus stops are 17620, 17621 and 17672 from Claremont Train Station and 17616 and 17669 to Claremont Train Station. Claremont Train Station is a 15 minute walk away. For further information, see Public Transport.</p> <p>Parking – There is ample parking on the grounds with a minimal cost from 8am-5pm, then free after 5pm. For further information, see Other Information.</p>

RSVP:

No later than 5.00pm Thursday 19 November (first-in-first-served basis).

Email cmbaupdate@ahpra.gov.au with your full name (surname in capitals) and confirmation that you would like to attend the forum.

Please register your attendance as the venue can only accommodate 90 people.

Map: [The University of Western Australia, cnr Princess and Goldsworthy Roads, Claremont WA 6010.](#)

Panel, court and tribunal decisions

The information below is provided to encourage practitioners to avoid similar incidents in the future.

Tribunal reprimands and suspends; imposes conditions on registration

The Victorian Civil and Administrative Tribunal (the tribunal) has reprimanded Chinese medicine practitioner Ms Ah Choo Teo and suspended her registration for three months from 19 January 2015 to 21 April 2015.

The tribunal also imposed a condition on Ms Teo's registration, which will take effect upon Ms Teo resuming her Chinese medicine practice and requires her practice to be subject to periodic auditing.

Following a complaint made about her by a former patient, Ms Teo was referred to the tribunal in February 2011 with concerns about her professional conduct. The referral was made by the Professional Standards Panel of the Chinese Medicine Registration Board of Victoria under the Health Profession Registration Act 2005 (Vic), which was the law in force at the time.

Ms Teo admitted to three allegations of professional misconduct relating to communicating the likely outcome and benefits of treatment, deficient patient records and failing to protect patient privacy. She also admitted to two allegations of unprofessional conduct relating to poor communication and failures in labelling and dispensing herbs properly.

The tribunal found that Ms Teo had engaged in professional misconduct and unprofessional conduct by failing to communicate properly, make adequate patient records, label and dispense herbs properly and adequately protect patient privacy.

As the case relates to conduct in 2009, the tribunal made these findings under the Health Profession Registration Act 2005 (Vic).

The reasons for the tribunal's decision are on the [AustLII website](#).

Practitioner professional misconduct

Mr Garvin was formerly registered as a Chinese medicine practitioner. His registration lapsed on 30 November 2013 and was not renewed. The Board undertook an investigation under Part 8 of the National Law into the allegation that Mr Garvin had engaged in conduct which amounts to professional misconduct in that he indecently and unlawfully assaulted a female patient on 30 November 2013. Mr Garvin was convicted of that offence on 7 June 2013 and sentenced to 6 months imprisonment. Mr Garvin also failed to notify the Board of his conviction.

The practitioner admitted the conduct and that it was professional misconduct. When the matter was heard in August 2014, the Board submitted that an appropriate order would be a reprimand and disqualification for a period of 3 months from the date of the order. Given the length of time since the decision, the tribunal concluded that it was not necessary to protect the public or to uphold the reputation of the profession for a further preclusion period to be imposed.

The tribunal noted that based on other cases, the voluntary removal from the register by a practitioner, the tribunal was able to take the view that such a period might be considered as equivalent to a de facto suspension.

Costs were awarded against Mr Gavin.

Retiring National Board and committee members

Australia's health ministers have announced appointments and reappointments of Chairs, practitioner members and community members to fill vacancies arising across 12 National Boards. The vacancies are primarily a result of the three-year terms expiring for those appointed to National Boards by the Australian Health Workforce Ministerial Council (the Ministerial Council) in 2012.

Esther Alter has served as a community member of the national board since June 2013, but for family reasons she has decided not to take up a new term of office. Esther's legal training and experience has brought an important perspective to the work of the Board and we are sorry to see her go.

On 31 October 2015 David Halstead will be finishing his work supporting Chinese medicine regulation. David has been a community member of the Registration and Notifications Committee, (originally the Registration Committee), since July 2012. Before that he was an inaugural member of the Victorian Chinese Medicine Registration Board. He was appointed to the Victorian Board on 20 December 2000 and stayed to the end on 30 June 2012, when Chinese medicine became a part of the National Scheme.

David started as the legal member of the Victorian Board and from July 2009 he served as the President. It is fair to say that his input, in terms of expertise and extraordinarily long hours, has formed a key part of the history of Chinese medicine regulation in Australia. To have lasted through 'grandparenting' twice says something about his persistence and dedication, and we are very grateful to David.

David wants to point out he has learned a lot from some very talented people involved in Chinese medicine, and now consults a practitioner monthly. He adds, 'The interface between regulation and law and the improvement of good professional practice is subtle and important and the Board is doing very well'.

Peter Gigante is also finishing up on 31 October 2015. Peter has been a practitioner member of the Registration and Notifications Committee since July 2012 too. Peter also served on the Victorian Chinese Medicine Registration Board as a practitioner member from 2005 to the end, on 30 June 2012. When he came onto the national committee, grandparenting hit him between the eyes - Peter says, 'The long hours have been tough but it has been a privilege and a great learning experience'.

A full list of appointments for the National Boards is available on the [COAG website](#).

Limited registration standard for teaching and research

Overseas-trained Chinese medicine practitioners can now apply for limited registration for teaching or research when offered a position in Australia.

At its meeting on 27 August 2015 the Ministerial Council approved the new registration type. Coming into effect on the day it is published on the Board's website, it offers Chinese medicine practitioners who meet the Board's standard limited registration for a specific job or position.

Chinese medicine practitioners who are granted this type of registration will be published on the publicly available [register](#), including details of their registration.

The requirements of the new registration type are outlined in the Board's *Registration standard: Limited registration for teaching or research*, which will be published on the [Registration Standards](#) section of the Board's website shortly.

Board Chair, Prof Charlie Xue said this was another important step in the regulation of Chinese medicine in Australia.

'Maintaining public safety is the key focus for the Board. Ensuring that Chinese medicine researchers and teachers, including those trained overseas, meet the Board's national standards is vital', Prof Xue said.

'This new registration type will facilitate Australian Chinese medicine access to teaching and research by overseas practitioners, while ensuring that the Board's standards are still met', he said.

Like all types of limited registration under the National Law, limited registration can only be held for up to 12 months, and can only be renewed up to three times.

Consultations update

The Board recently consulted on draft health records guidelines and is now considering the feedback from that consultation with a view to finalising the guidelines as soon as possible.

Informed consent

The Board's Registration and Notifications Committee (the committee) has alerted the Board to some issues related to informed consent. The committee has become increasingly aware that although Chinese medicine practitioners know informed consent is a requirement of practice, some practitioners seem to be unsure how to obtain consent in a satisfactory manner.

In response, the Board has decided to publish a series of articles on informed consent.

Informed consent is a complex area that merits in-depth discussion. While practitioners' primary obligations in relation to informed consent stem from the Board's [Code of conduct](#), and in particular section 3.5 Informed consent, this article provides some further discussion aimed at assisting practitioners to better understand their obligations.

What are the requirements for informed consent?

Practitioners must obtain informed consent in relation to each treatment that they provide to a patient. Consent to one type of treatment on one occasion does not necessarily indicate consent to all treatments, or even the same type of treatment on another occasion.

Informed consent requires that the patient be properly advised in advance by the practitioner and understands:

- the potential benefits sought by the treatment plan proposed
- the factors that impact on the chances of improvement
- the risk of harm occurring due to the treatment
- the risk of harm occurring if no treatment is carried out
- alternatives to the proposed treatment, should they be known, which should also be discussed so the patient is able to make decisions about the risks and benefits of options, and
- the fees for initial and ongoing treatment.

What is the process for obtaining informed consent?

The process of obtaining informed consent requires practitioner awareness, vigilance and an element of judgement. Practitioners must also be conscious of their own limitations. It is important to always ensure that the patient has adequate opportunity to:

- pay attention to what is being said
- be given adequate information in words the patient can understand
- ask questions
- have information repeated if necessary
- consider the information and make decisions without undue pressure, and
- agree before the practitioner actually performs a treatment or examination.

This also applies to ongoing review of progress.

Special considerations

The rights and interests of the patient must be taken into account at every stage. Certain procedures may not be acceptable to the patient and they may feel pressured during the treatment.

For example, if a practitioner intends to palpate the abdomen, they should advise the patient before starting. During examination, the practitioner should explain what they are going to do next, observe the patient's reaction and respond appropriately. Practitioners should always be prepared to stop if the patient shows any sign of discomfort or hesitation.

Regions of the patient's body are usually covered such as a patient's breasts, abdomen and genital areas, require particular sensitivity in physical examination, and should only be exposed when necessary for the diagnostic process and when clinically relevant. Good practice involves taking additional care to ensure that informed consent is specifically obtained in relation to exposure of these areas.

If a treatment is invasive, confronting, painful or risky, then the practitioner should be especially careful to explain the treatment and obtain proper informed consent.

Patients have a right to withdraw consent any time during a consultation and/or treatment session. A personal history of trauma, cultural or religious prohibition, personal inhibition, mental illness or pain can also affect the individual response to physical examination or treatment. If the practitioner is aware that a patient is affected by one of these issues, then additional caution and sensitivity may be appropriate when obtaining informed consent.

Continued consent is dependent upon the patient, who is best supported by:

- the awareness, conduct and intent of the practitioner in response to the patient at all times
- the trust engendered by proper conduct, and
- additional explanation and information when appropriate.

Practitioner conduct

Practitioners' conduct should be respectful, courteous and modest, reflecting the patient's right to quality care when consulting a registered practitioner. This includes the practitioner's manner of inquiry, appreciation of the patient's concerns and proper attention to the presenting problem. Although the degree of formality between practitioner and patient may vary because of familiarity and the strength of the natural rapport, the practitioner must always be diligent and careful to obtain informed consent.

We will continue this discussion in the next issue, where we will cover the use of explicit consent forms.

If you have any questions or comments please email chinesemedicineconsultation@ahpra.gov.au.

Panel hearings – list of approved persons

The purpose of panels

As part of managing a notification (which is a concern or complaint about a registered health practitioner), National Boards may decide to refer a registered practitioner or student to a panel.

Under the [National Law](#), a National Board has the power to establish two types of panel depending on the type of notification. There are health panels (for health matters) and performance and professional standards panels, for conduct and performance issues.

The two types of panel have different membership requirements and slightly different outcomes available. A student cannot be referred to a performance and professional standards panel.

Panels are established from a list of approved people, to hear allegations about a particular practitioner. Under the National Law, panels must include members from the relevant health profession as well as community members. Health panels must include a medical practitioner. Each National Board has a list of approved people who may be called on to sit on a panel.

Panels make independent decisions on the information before them, which may include reports and assessments about a health professional who is the subject of a notification and subsequent investigation. A panel may make a number of decisions under the National Law, including dismissing the matter, imposing conditions on a health practitioner's registration, suspending the practitioner's registration, or for a performance and professional standards panel, cautioning or reprimanding the practitioner.

What is involved?

If you are selected by the Board to be part of the list of approved persons for appointment to panels, you may or may not be called on to be part of a panel throughout your term.

If you are called on to be part of a panel, you will be contacted by AHPRA staff who will ask about your availability and check that you do not have a conflict of interest in relation to the particular matter. AHPRA staff will also provide advice about the location and timeframe of the panel hearing. There is an expectation that each hearing would include approximately half to one day of preparation time to review the documentation supplied by the notifier, practitioner and investigator.

In addition, you will be asked to take part in the panel member training program, which will consist of a half-day face-to-face session at your local AHPRA office, followed by an online training program to be completed at your convenience. It is a requirement that all panel members appointed will have successfully completed the training before sitting on a hearing. The panel member training program is designed to ensure panel members are supported to make effective decisions about the registration of practitioners or students who are subject to panel hearings.

National Scheme news

Criminal history and English language skills registration standards have been revised

The registration standards for criminal history and English language skills have been revised following consultation and have been approved by the Ministerial Council. Both registration standards took effect from 1 July 2015.

Criminal history

The new criminal history registration standard makes minor amendments to the old standard and is expected to have minimal impact on practitioners.

When a practitioner first applies for registration, the National Board requires the applicant to declare their criminal history in all countries, including Australia. All registered health

practitioners must inform their National Board in writing within 7 days if they are:

- charged with an offence punishable by 12 months imprisonment or more, or
- convicted or found guilty of an offence, in Australia or another country, punishable by imprisonment

When practitioners renew their registration they must disclose any changes to their criminal history.

The registration standard is published on the [Registration Standards](#) page on the Board's website.

English language skills

The new registration standard for English language skills applies to all applicants for initial registration, regardless of whether they qualified in Australia or overseas.

The new standard introduces additional pathways for applicants to demonstrate evidence of their English language skills.

The new standard was developed after a review of the existing standard, which included a public consultation. All National Boards, except the Aboriginal and Torres Strait Island Health Practice Board of Australia, consulted on and revised their English languages skills standard. The standards are now largely common across professions.

The registration standard is published on the [Registration Standards](#) page on the Board's website.

AHPRA joins Facebook

Earlier this year the AHPRA joined Facebook as another means by which we can engage with the public and practitioners. We'll be sharing similar content on Facebook that we do on Twitter: news from AHPRA and the National Boards, along with photos from events and forums.

Visit our [Facebook](#) page.

Queensland complaints data have been published

AHPRA and the National Boards have published detailed performance data about notifications management in Queensland.

A co-regulatory system has been in place in Queensland since July 2014 and all complaints about Queensland registered health practitioners are received by the Office of the Health Ombudsman (OHO). The Health Ombudsman is responsible for managing serious complaints relating to the health, conduct and performance of health practitioners in Queensland, and determines which complaints go to AHPRA and the National Boards after assessing their severity.

AHPRA provides quarterly data to the OHO about its performance in managing the complaints which come to AHPRA and the National Boards from the OHO. These data provide quantitative information about the number of complaints received and timelines for managing them.

The first report, which was published in May, includes detailed performance data about notifications management for the first three quarters from 1 July 2014 and 31 March 2015.

Analysis of these data, detailing matters managed by AHPRA and the National Boards, indicates:

- complaint referral patterns from the OHO to AHPRA are variable month to month
- on early trends, AHPRA is receiving 50 per cent fewer complaints than for the comparable period in 2013/14. This suggests the OHO is not accepting, is retaining and/or is closing most matters that the Ombudsman considers do not warrant further action. Of those we manage, more than 70 per cent require further regulatory action, and
- investigation timelines continue to be a major focus for AHPRA and the Boards. Sixty-seven of the matters open with AHPRA for longer than 18 months are about 25 practitioners. Multiple complaints about the same practitioner require more complex investigations.

AHPRA continues to focus on decreasing the time it takes to investigate matters, finalising more old investigations and improving the notifier and practitioner experience.

AHPRA will publish more national performance data throughout the next financial year.

The Queensland report is published on the AHPRA website [Statistics](#) page.

AHPRA welcomes ministers' response to National Scheme review report

The Ministerial Council met on 7 August 2015 at the COAG Health Council meeting to consider the final report of the independent review of the National Scheme.

The purpose of the independent review was to identify what is working well in the National Scheme and the opportunities to improve and strengthen the operation of the scheme to regulate health professions to protect the public.

Ministers expressed strong support for the work of the National Scheme, noted that it was now embedded in the health system and was among the most significant and effective reforms of health profession regulation in Australia and internationally.

More information about the review can be found on the [COAG Health Council](#) website and on [AHPRA's](#) website.

Royal Commission on child sexual abuse

The Board and AHPRA have been following the Royal Commission into institutional responses to child sexual abuse and its implications for the regulation of health practitioners. The issues raised in the Royal Commission are serious and disturbing.

The Board and AHPRA are committed to learning from the evidence before the Royal Commission and its findings and are taking action to make sure our regulatory system is responsive to anyone who has been sexually abused by a registered health practitioner, who comes forward.

If you have a concern about a health practitioner call:

- AHPRA on 1300 419 495 (all states and territories except NSW and Qld)
- NSW – 1800 043 159
- Qld – 133 646 (133 OHO).

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 enquiry form via the website by following the [enquiries link](#) on the bottom of every page.
- 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.

