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Chair's message

Welcome to the seventh edition of the Chinese Medicine Board of Australia's (the National Board) newsletter.

The Board conducted its annual planning session in November 2014 and its strategic focus for 2015-16 will be to:

- maintain a sustainable financial position for the Board
- actively engage stakeholders, and
- work collaboratively with AHPRA to be an effective regulator.

In due course the Board's regulatory plan will be published with the Health Profession Agreement.

Please note the impending end of grandparenting, for which the Board has planned an awareness campaign. We also encourage all registrants and other stakeholders to let people know that this one-off opportunity to apply for registration under the grandparenting provisions ends after 30 June 2015. After this, the Board has no discretion and cannot assess any new application in accordance with the grandparenting arrangements.

Last year Independent Reviewer Mr Kim Snowball was commissioned by the Australian Health Ministers' Advisory Council to review the National Registration and Accreditation Scheme for the health professions. Mr Snowball was due to submit his final report by 20 December 2014 and we all now await further information about this important evaluation of the scheme.

The Board's new committee structure has now been in effect for five months and the chairs of the two committees have contributed to this newsletter.

May I take this opportunity to wish everyone a happy new year, including Chinese New Year.

Professor Charlie Xue

Chair, Chinese Medicine Board of Australia



Grandparenting is ending soon – applications due by 30 June 2015

Are you a Chinese medicine practitioner? Are you registered?

To use the titles 'Chinese medicine practitioner', 'Chinese herbal dispenser', 'Chinese herbal medicine practitioner', 'Oriental medicine practitioner' and 'acupuncturist', a practitioner must by law be registered with the Chinese Medicine Board of Australia (the National Board).

Penalties exist if you are not registered with the National Board and lead a person to believe that you are registered.

The Board has published the *Grandparenting and general registration eligibility registration standard* (the Grandparenting standard) which allows practitioners who were practising before the national regulation of Chinese medicine to apply for registration with the Board. The Grandparenting standard expires on 30 June 2015. From 1 July 2015, the only way to become registered is to meet the Board's post-grandparenting registration standards.

To find out more, go to our website at www.chinesemedicineboard.gov.au. Particularly, go to the *Registration standards* tab to find out what the requirements are for becoming a registered Chinese medicine practitioner, and see the supporting FAQs under *Codes and guidelines*.

Committee restructure

Policy, Planning and Communication Committee

A new committee of the National Board was formed in September – the Policy, Planning and Communication Committee (PPC). This committee replaces three pre-existing committees (Policy, Finance and Communication). It is chaired by Dr Anne Fletcher and its members are Esther Alter, Di Wen Lai and Roderick Martin. The committee (which does not have delegated powers) is responsible for the development and review of standards, guidelines and codes on behalf of the Board.

The workload is quite heavy presently as the *Guidelines for safe Chinese herbal medicine practice* are currently being finalised and several existing standards and guidelines are to be reviewed in the near future. The committee undertakes a public consultation process during development of all guidelines and standards. The *Supervision guidelines* were recently published and consultation on the new *Limited registration standard* is close to completion.

The committee also considers and advises the Board on communication issues and formulates appropriate communication policies and plans. This work is particularly relevant because of the upcoming end to the grandparenting provisions (at the end of June 2015). For a full list of standards, guidelines and codes developed (or adopted) by the Board please see [Codes and guidelines](#) on our website.

Registration and Notifications Committee

The Registration and Notifications Committee (RNC) was established in September following an efficiency review by the Board. The new RNC replaces two former committees that dealt separately with registration and notifications issues. The RNC is chaired by Professor Craig Zimitat (Tas) and its members are Peter Gigante (Vic), Dr Liang Zhong Chen (SA), Christine Berle (NSW) and David Halstead (Vic). The committee, which has delegated powers, is responsible for making decisions in relation to registration and notification matters, including as the Immediate Action Committee of the Board.

Common issues coming to the RNC relate to patient records, infection control, informed consent and boundary issues. Through the Board, the RNC relates to the Policy, Planning and Communication Committee to 'close the loop' so that development of policies and guidelines is informed by practitioner behaviour.

Endangered species and Chinese medicine

In recent decades, there has been increasing concern over the perceived use of endangered species in all forms of traditional medicine.

With the increasing practice of Chinese medicine throughout the world, the use of parts from endangered species (such as tiger *Panthera tigris*, rhinocerotidae spp. *Saussurea costus* (*lappa*) and *Panax quinquefolius*) as ingredients in traditional Chinese medicine has become an international conservation

concern. Even though Chinese medicine practitioners might have used these medicinal materials before the introduction of the regulations, such practices are being increasingly restricted and banned worldwide.

What is happening in China?

The Chinese Government has investigated the utilisation and availability of certain medicinal materials, so that appropriate protections can be implemented. Over recent years, the Chinese Government has introduced tough measures to control the possession and sale of products containing endangered plants and animals. Chinese environment and resource protection laws ban harming, killing and smuggling endangered species in and out of China.

And Australia? And you?

Australia is a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

This convention specifies lists of species of plants and animals which must not be traded or can only be traded under a system of permits. The CITES list has legal force in Australia via the Wildlife Protection Act and other associated legislation. Failure to comply with the CITES requirements can lead to prosecution.

While the consumption of endangered wildlife can be reduced to a certain extent by laws and trade controls, voluntary adherence to these regulations by Chinese medicine communities is far more effective and constructive than law enforcement alone.

As a Chinese medicine practitioner, you need to be aware of the restrictions and practise responsibly. Your responsibilities include:

- being aware of newly identified substitutes for endangered species which have reliable and similar therapeutic effects (for example, buffalo horn instead of rhinoceros horn; pig bone instead of tiger bone; and *Radix Berberidis* instead of *Rhizoma Coptidis*), and
- using artificial substitutes instead of using the parts of the animals.

A great deal of experimental and clinical research has been undertaken to find effective, abundant and safe substitutes and much progress has been made.

Chinese medicine emphasises the harmony and balance between humankind and environment. According to Chinese medicine principles, the body reflects the universal order (*tian ren he yi* or microcosm and macrocosm).

As the legal framework for Chinese medicine in Australia continues to develop, it is in the interest of the Chinese medicine profession to enhance and promote a positive, safe and professional image. Chinese medicine practitioners play an important role in the social wellbeing of the Australian community and environment.

The lists of species subject to CITES controls have been consolidated into a single list under the *Environment Protection and Biodiversity Conservation Act 1999*.

You can download the list from the internet and obtain further, general information at www.environment.gov.au/biodiversity/wildlife-trade/cites

The Privacy Act – health businesses and health information

In the public sector, Australia has had privacy legislation since 1988. The national *Privacy Act 1988* provides a guideline for use of personal information by the public sector through its embodiment of Information Privacy Principles (IPPs). These principles deal with the collection, solicitation, storage, security, access, alteration, use and the disclosure of personal information.

In late 2000 the *Privacy Act 1988* was amended by the *Privacy Amendment (Private Sector) Act 2000*. These amendments created National Privacy Principles (NPPs) that apply to certain parts of the private sector, notable exemptions being small business and employee records.

The *Privacy Act 1988* sets out 11 Information Privacy Principles (IPPs) for federal and ACT Government agencies that govern how agencies handle personal information, including its collection, use and disclosure, security and destruction.

The Act also has 10 National Privacy Principles which govern the private sector in their handling of personal information. The definition of personal information refers to information or opinion about an individual whose identity is apparent or can be reasonably ascertained.

Useful information is available on the website of the Privacy Commissioner: www.privacy.gov.au/

A good source of summarised information is a list of information sheets which is available at www.oaic.gov.au/privacy/privacy-resources/privacy-fact-sheets/ – for example:

Sale and purchase of a health business

What are your obligations under the Privacy Act 1988 (Cth)? See the detailed [information sheet](#) on buying and selling a business.

Charging fees for access to health information

The *Privacy Act 1988* requires health service providers in the private sector to give a patient access to their health information if requested, unless a listed exception applies. See the detailed [information sheet](#).

Health information

Health information is considered private and also sensitive. As such it requires special treatment.

Points to remember about the information you collect

- When collecting data it must be in a lawful manner and for a lawful purpose.
- People should be advised why the information is being collected, the legal authority for the collection and who the information is going to.
- The information collected should be relevant and not intrude on personal affairs.
- Once collected the information should be secure and used only for the purposes indicated.

- Individuals have a right to know what information is held about them, what it is for, how long it is going to be kept, who has access and how they can obtain access.
- Information may need to be corrected, deleted or added to. Efforts should be made to ensure that information held is accurate.

In addition, remember that the way you collect information matters too, not just how you store it. For example, it is not acceptable for someone to discuss personal information in an open space such as a reception counter or a treatment room intended to be used by more than one patient. It may be a breach of privacy if health information is disclosed to a nearby person in this manner.

Each Australian state and territory regulates the management of personal information. In some states and territories, personal information is regulated by legislative schemes, in others by administrative regimes.

New South Wales, Victoria and the ACT all have legislation that regulates the handling of personal health information in the private sector. This means that health service providers and others in the private sector in those jurisdictions are required to comply with both federal and state or territory legislation in relation to personal health information. A summary of relevant legislation and other guidelines follows:

Commonwealth

- Privacy Act 1988

New South Wales

- Privacy and Personal Information Protection Act 1998 (NSW)
- Health Records and Information Privacy Act 2002 (NSW)

Victoria

- Information Privacy Act 2000 (Vic)
- Health Records Act 2001 (Vic)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)

Queensland

- Information Privacy Act 2009
- Information Privacy Regulation 2009
- Hospital and Health Boards Act 2011
- Hospital and Health Boards Regulation 2012
- Right to Information Act 2009
- Right to Information Regulation 2009

Western Australia

- Freedom of Information Act 1992 (WA)
- State Records Act 2000 (WA)

South Australia

- Code of Fair Information Practice

Northern Territory

- Information Act 2002 (NT)
- Code of Health and Community Rights and Responsibilities

ACT

- Health Records (Privacy and Access) Act 1997 (ACT)

Tasmania

- Personal Information Protection Act 2004 (Tas)
- Health Complaints Act 1995 (Tas) – Charter of Health Rights

Protecting the public: notifiable conduct and mandatory reporting

What is mandatory reporting?

The National Law requires practitioners, employers and education providers to report notifiable conduct, as defined in section 140 of the National Law, to AHPRA in order to prevent the public being placed at risk of harm. Practitioners are required to make a notification (mandatory notification) when they have a reasonable belief that any registered health practitioner is engaging in notifiable conduct that may be a serious risk to the public. The National Law protects notifiers who act in good faith in making a notification.

Notifiable conduct is defined in the National Law as:

- practising the practitioner's profession while intoxicated by alcohol or drugs; or
- engaging in sexual misconduct in connection with the practice of the practitioner's profession; or
- placing the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or
- placing the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.

Not being required to make a mandatory notification does not prevent a voluntary notification being made about the behaviour of a registered health practitioner. More information can be found on the Board's website.

National Scheme news

Certificate of Registration Status now available online

New process makes it easy

Registered health practitioners can now request a Certificate of Registration Status (CoRS) using the online AHPRA portal. In the past this was a manual process involving a form which was either posted or hand-delivered to an AHPRA office.

Practitioners can now:

- apply online by logging onto [online services](#), or
- find out more information on our [Practitioner services page](#) of the AHPRA website, or
- apply using the PDF form, which is available for download from our [Common application forms page](#) or the [Practitioner services page](#) of the AHPRA website.

There is a fee of \$50 for each CoRS.

What is a CoRS?

When practitioners are seeking registration or employment that requires them to be registered outside Australia, the regulatory authority in that jurisdiction may require a [Certificate of Registration Status \(CoRS\)](#). This document is also referred to as a Certificate of Good Standing or Certificate of Current Professional Status by some regulators.

The certificate provided by AHPRA:

- identifies the National Board and the recipient organisation
- lists practitioner-specific information including key registration dates, details of any current proceedings, suspensions, cancellations and/or any other relevant information, such as active conditions, undertakings, cautions and reprimands, and
- includes the date of issue of the certificate.

AHPRA offers a service to practitioners to provide a CoRS to regulatory authorities in other countries and some other approved organisations, including a number of specialist colleges. Approved organisations can be found on AHPRA's website under [Practitioner services](#).

The certificate is never provided to the requesting practitioner or to an employer, and can only be sent to an AHPRA-approved regulatory body or organisation.

These changes are part of our ongoing work with AHPRA to improve and streamline services for registered practitioners.

Criminal history checks

Strengthening international criminal history checks

The National Boards and AHPRA have implemented a new procedure for checking the criminal history of international applicants for registration. The new approach aims to strike a balance between public safety and regulatory burden for practitioners.

For more information, please read the [media release](#) on the Board's website.

Criminal history – your requirement to tell us

We would like to remind all Chinese medicine practitioners that you have an obligation under the National Law¹ to not only disclose criminal history when applying for registration or to renew registration, but also, **within 7 days** at any time, you are required to provide notice:

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

- if you are charged with an offence punishable by 12 months' imprisonment or more, or
- if you are convicted of, or the subject of, a finding of guilt for an offence punishable by imprisonment.

Section 79 of the National Law requires a National Board to check for criminal history before deciding an application for registration.

The National Law defines criminal history as:

- every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law;*
- every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence;*
- every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.*

While every case is decided on an individual basis, the National Board considers a number of factors when determining how the criminal history may affect your eligibility for registration.

The *Criminal history registration standard* is available under [Registration standards](#) on our website.

Annual report and profession profile online

2013/14 National Scheme annual report

AHPRA and the National Boards have released their 2013/14 [annual report](#) on the National Scheme, providing a comprehensive record of the operations of the National Scheme for the 12 months ending 30 June 2014.

The annual report provides a national snapshot of the work and finances of the National Scheme and is tabled in the parliaments of each state and territory and the Commonwealth. The 2014 annual report is an important reporting milestone and covers the lead-up to the scheduled independent three-year review of the National Scheme, now underway.

This year, for the first time, AHPRA and the 14 National Boards have also [published summaries](#) of our work regulating health practitioners in every state and territory.

Chinese medicine profession profile

The National Board has also published a report of its work in regulating the Chinese medicine profession in the National Registration and Accreditation Scheme during 2013/14.

The [report](#) provides a profession-specific view of the Board's work to manage risk to the public and regulate the profession in the public interest. It is a profile of regulation at work in Australia for the 12 months ending 30 June 2014.

The data in this report are drawn from data published in the [2013/14 annual report](#) of AHPRA and the National Boards, reporting on the National Scheme.

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 8708 9001 (for overseas callers).
- Address mail correspondence to: Prof. Charlie Xue, Chair, Chinese Medicine Board of Australia, GPO Box 9958, Melbourne VIC 3001.

