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AUSTRALIAN TRADITIONAL-MEDICINE SOCIETY LTD

Response to the Chinese Medicine Board of Australia Consultation Paper on proposed codes and guidelines for:

- 1. A code of conduct for the profession**
- 2. Guidelines on mandatory reporting**
- 3. Guidelines on Advertising**
- 4. Patient Records**

Plus the response to an additional Chinese Medicine Board of Australia Consultation Paper on:

- 5. Composition of the Chinese Medicine Board of Australia Accreditation Committee.**

The Australian Traditional Medicine Society is pleased to provide these responses to the Chinese Medicine Board in respect of the above five topics.



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Executive Summary

The Australian Traditional-Medicine Society thanks the Chinese Medicine Board of Australia for being allowed this opportunity to provide comment on the following five topics. By way of an Executive Summary:

1. Draft Guidelines on Advertising

In the main ATMS supports the general adoption of the existing common advertising guidelines. ATMS also supports the proposed CMBA modification regarding use of the title 'Visiting Professor' etc.

However one area where ATMS has significant concerns with the existing common advertising guidelines, and which is directly relevant to the change proposed by the CMBA, is that registered practitioners who do not hold registration as medical practitioners may use the title 'doctor'. ATMS is especially concerned that this freedom is allowed 'whether or not they hold a Doctorate degree pr PhD' (clause 6.4.1 of the existing common advertising guidelines.) ATMS suggest that the Psychology Board of Australia specific addition should also be adopted by the CMBA (and indeed the whole of the registered medical profession.)

2. Draft code of conduct for the profession

ATMS agrees that the existing 'common code' sets important and appropriate standards for practitioner behaviour, and that the existing 'common code' should in the main be applied to practitioners registered with the CMBA.

Further however, ATMS applauds the CMBA on its proposed replacement paragraph at clause 3.3(b) of the existing 'common code'. This change proposed by CMBA will assist create an environment where all registered practitioners and their therapies are treated with equal respect. ATMS strongly supports the change proposed here by the CMBA.

3. Draft Guidelines on mandatory reporting

ATMS has no significant concerns with the existing common guidelines for mandatory reporting and supports the proposal by the CMBA to also adopt those common guidelines.



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4. *Draft Guidelines on Patient Record Keeping*

The draft guidelines on Patient Record keeping are overall comprehensive, and ATMS has no concerns with any of the requirements set out in the guidelines. Further ATMS again congratulates the CMBA for taking the additional step of requiring a copy of the records be provided if requested. This requirement is in the best interests of the public.

ATMS suggests that there be a requirement for the receipt to also show the practitioner's CMBA registration number.

ATMS suggests that the CMBA should have a principal statement that in general records should be kept in English. Additionally however it should be mandated that an English translation of all herbs and other products dispensed, including preparation/dosage instructions, and/or an English translation of acupuncture points treated, be made at the time of each consultation. Such a measure will hopefully be achievable by a practitioner even with only minimal English literacy skills, but will more often than not provide essential information in case of an emergency.

5. *Composition of the Chinese Medicine Board of Australia Accreditation Committee.*

ATMS submits that there should be a minimum two Chinese medicine practitioners on the Accreditation Committee. These two Chinese practitioner members should be in active practice in either acupuncture or Chinese herbs, but that the members not both practice the same modality (unless one genuinely does practice both modalities in their day to day practice.)

The Accreditation Committee should consist of 5-6 members, but not include a community representative but possibly include a member from the CMBA.



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About the Australian Traditional-Medicine Society Ltd

The Australian Traditional-Medicine Society (ATMS) is Australia's leading Association of natural medicine practitioners. With over 12,000 financial members, ATMS is Australia's largest Association of natural medicine practitioners, and represents about 65% of all natural medicine practitioners in Australia.

ATMS represents a very large percentage of the Chinese herbal medicine and acupuncture professions. Currently there is a total of some 1,200 ATMS members accredited in either Chinese herbal medicine and/or acupuncture. Some 773 members are accredited in both Chinese herbal medicine and acupuncture, about 430 members are accredited in acupuncture only and about 17 members are accredited in Chinese herbal medicine alone.

ATMS practitioners are encouraged to pursue the highest ideals of professionalism in their natural medicine education and practice. All ATMS members must abide by the ATMS Code of Conduct and official ATMS Policies. Furthermore, there is a process whereby concerns about the professional conduct of an ATMS member may be made to the ATMS Complaints Committee.

Accredited (practitioner) membership of ATMS is only available to those practitioners who meet ATMS high academic standards, and other eligibility criteria. For Chinese herbal medicine and acupuncture these are summarised as follows:

- ***Academic requirement***

For accreditation in either Chinese herbal medicine or acupuncture ATMS requires a minimum relevant qualification at the Bachelor degree level, or a similar qualification which is considered to be equivalent to a Bachelor award. Additionally, ATMS requires that this study comprise a minimum 1664 hours, with at least 550 hours study in either Chinese herbal medicine or acupuncture specific subjects and that there must be a supervised clinic component of at least 500 hours.

Further ATMS requires that a significant portion of this study be conducted by 'face to face practical study'. 'Face to face practical study' is purposefully defined to be different to 'face to face study'. ATMS defines 'face to face practical study' as only study which in the opinion of ATMS is undertaken in the physical presence of the lecturer, tutor, presenter. It excludes all forms of study delivered remotely by electronic and similar modes, and including even those which allow for real time interaction between lecturer/students and students/students. It also excludes all home study,



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prior reading/study for lessons, research for assignments, unless done in the physical presence of the subject lecturer, tutor, presenter etc.’

For both Chinese herbal medicine and acupuncture, ATMS requires that all of the supervised clinic (500 hours) be conducted by face to face practical study. Additionally at least 275 hours of the acupuncture specific subjects must be undertaken by face to face practical study.

- ***Overseas qualifications***

ATMS no longer accepts qualifications obtained overseas. In introducing this initiative ATMS acknowledges that often the person from overseas will have equivalent or perhaps even superior clinical training. However they cannot have the same level of training in the essential areas of Australian ethics, Australian OH&S requirements, and Australian Law such as Privacy, Taxation etc.

Thus they need to undertake whatever additional study is required to graduate with an appropriate Australian qualification.

- ***Non English speaking background***

ATMS considers that an adequate level of English literacy skills is essential for the safe practice of natural medicine in Australia. Consequently in our most recent membership qualification initiative all new applicants whose first language is not English must have obtained an English language proficiency level of a minimum overall band 6 or higher in academic or general testing under an International English Language Testing System (IELTS) exam.

- ***Character test***

Any person seeking to join ATMS must be of ‘good character’. ATMS has a specific question on its application form where a person is asked if they have had any past criminal offences, had a complaint considered by a complaints/disciplinary body or been expelled from another association.



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The Consultation Response by ATMS

The following is the response by ATMS to the Chinese Medicine Board Australia (CMBA) to the five issues raised in the two consultation paper.

1. Draft Advertising Guidelines

In the main ATMS has no concerns with the existing common advertising guidelines. Accordingly ATMS supports their general adoption by the CMBA.

However one area where ATMS has significant concerns with the existing common advertising guidelines, and which is directly relevant to the change proposed by the CMBA, is that registered practitioners who do not hold registration as medical practitioners may use the title 'doctor'. ATMS is especially concerned that this freedom is allowed 'whether or not they hold a Doctorate degree or PhD' (clause 6.4.1 of the existing common advertising guidelines.)

ATMS has a long established policy of forbidding its members from using the title 'doctor' in a clinical setting unless the member holds registration as medical practitioner. Unfortunately the freedom given to TCM practitioners in Victoria by the Chinese Medicine Registration Board, and Osteopaths and Chiropractors nationally by their national Boards, to use the title 'doctor' has meant that in recent times ATMS has been unable to fairly apply this policy.

ATMS agrees with the Psychology Board of Australia *"that use of the title 'doctor' in their practice has the potential to mislead members of the public. Specifically, patients or clients may be misled into believing that the practitioner is a psychiatrist when they are not. Therefore, registered psychologists may not use such a title unless they hold a doctoral qualification from an approved higher education provider as listed in Part 2-1 Division 16 of the Higher Education Support Act 2003 (Cwlth) or an overseas institution with an equivalent accreditation status. Where a registered psychologist holds a doctoral qualification that meets the above standard, if they advertise their services to the public, they should make it clear when using the title 'doctor' that they are not a registered medical practitioner or psychiatrist, for example:*

- *Dr Vanessa Singh (Psychologist)*
- *Dr Ivan Hassam (Doctor of Psychology)."*

Although ATMS would prefer that the title 'doctor' never be used in a clinical setting unless the practitioner holds registration as medical practitioner, the above advice by the Psychology Board should also be adopted by the CMBA as a minimum. (Indeed ATMS submits it should be adopted as part of the common advertising guidelines for all registered professions.)



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Does ATMS agree with the proposed CMBA modification?

It follows from the above that ATMS supports the proposal by the CMBA that *“Chinese Medicine practitioners who hold current “Visiting Professor”, “Adjunct Professor”, “Distinguished Professor” or “Honorary Professor” status at an institution, should not mislead the public by omitting the word “Visiting” or “Honorary” from their use of the title.*

It is the practitioner’s responsibility to determine whether or not s/he can fairly carry the title without misleading the public. When using the title 'Professor' in advertising the name of the institution conferring the title should be included in order to fully inform the reader. ...”

Is there further profession specific guidance that needs to be included in the advertising guidelines?

It further follows from the above that ATMS believes that the added public protection provided by the Psychology Board of Australia specific addition should also be adopted by the CMBA (and indeed the whole of the registered medical profession.)



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2. Draft Code of Conduct for the Profession

ATMS agrees that a Code of Conduct is required to address issues like providing good care, effective communication, confidentiality and privacy, informed consent, adverse events and open disclosure, maintaining professional boundaries, health records, conflicts of interest, and financial and commercial dealings.

The existing 'common code' achieves these requirements. ATMS further agrees that the existing 'common code' sets *"important standards for practitioner behaviour in relation to:*

- *providing good care, including shared decision making*
- *working with patients or clients*
- *working with other practitioners*
- *working within the health care system*
- *minimising risk*
- *maintaining professional performance*
- *professional behaviour and ethical conduct*
- *ensuring practitioner health*
- *teaching, supervising and assessing."*

Thus ATMS agrees that the existing common code should in the main be applied to practitioners registered with the CMBA.

ATMS notes the replacement paragraph at clause 3.3(b) of the existing 'common code' proposed by the CMBA. That is:

That clause b of paragraph 3.3 (see page 31) which reads as follows:

3.3 Effective communication

An important part of the practitioner-patient/client relationship is effective communication. This involves:

b) encouraging patients or clients to tell a practitioner about their condition and how they are managing it, including any alternative or complementary therapies they are using

be replaced with the following section and that this modification be recommended to all other Boards:

3.3 Effective communication

An important part of the practitioner-patient/client relationship is effective communication. This involves:



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b) encouraging patients or clients to tell a practitioner about their condition and how they are managing it, including any other health advice they have received, any prescription or other medications which have been prescribed for them, and any other conventional, alternative or complementary therapies they are using

Does ATMS agree with the proposed modification?

ATMS applauds the CMBA in the wording of its proposed replacement paragraph at clause 3.3(b) of the existing 'common code'. The change proposed by the CMBA will help address the existing imbalance where natural medicine practitioners and their therapies are seen as being something requiring special review. The change proposed by CMBA will assist create an environment where all registered practitioners and their therapies are treated with equal respect.

ATMS strongly supports the change proposed here by the CMBA.



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3. Draft Guidelines for Mandatory Notifications

ATMS agrees that the existing common guidelines for mandatory reporting serve well *“to help practitioners, employers, and education providers understand whether they must make a notifications about a practitioner’s conduct and when, and whether to make a notification about an impaired student. Making a mandatory notification is a serious step to prevent the public from being placed at risk of harm and will only be taken on sufficient grounds. The guidelines explain when these grounds are likely to arise and are to help with decision-making. The National Law protects practitioners, employers and education providers who make notifications in good faith under the National Law.”*

Is there further profession specific guidance that needs to be included in the Guidelines for Mandatory Notification?

ATMS has no significant concerns with the existing common guidelines for mandatory reporting and supports the proposal by the CMBA to also adopt those common guidelines.



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4. Draft Guidelines on Patient Record Keeping

The draft guidelines on Patient Record keeping are overall comprehensive. ATMS has no concerns with any of the requirements set out in the guidelines.

ATMS notes that at clause 5 there is a requirement that upon a request a patient must be provided with a copy of their records, as opposed to only the more vague 'access' as required under Privacy legislation. Again ATMS applauds the CMBA for taking this additional step of requiring a copy of the records be provided if requested. This requirement is in the best interests of the public.

At clause 6, 'Accounting records' there is no requirement for the receipt to show the practitioner's CMBA registration number. ATMS considers that simple measure would provide significant further protection for the public. Accordingly ATMS suggests that there be a requirement for the receipt to also show the practitioner's CMBA registration number.

Should patient records be mandated to be in English or should there be a principle statement that in general records should be kept in English?

ATMS notes and agrees with the CMBA's concerns that when a practice closes the burden of translation is shifted to the consumer. Additionally records should also be able to be read by any other healthcare practitioner, and that there is an explicit expectation in the National Law that practitioners have English proficiency.

There is the added concern of what might occur in an emergency situation. Should say an ambulance or other emergency service be required, it might be vital that the attending emergency personnel, or the receiving hospital, have immediate access to the records in English.

Balanced against this however is that many existing practitioners do not speak English, (a difficulty that will hopefully gradually resolve as more recent practitioners meet the English literacy requirements.)

ATMS suggests that a middle path between these conflicts is that the CMBA should have a principal statement that in general records should be kept in English. Additionally however it should be mandated that an English translation of all herbs and other products dispensed, including preparation/dosage instructions, and/or an English translation of acupuncture points treated, be made at the time of each consultation. Such a measure will hopefully be achievable by a practitioner even with only minimal English literacy skills, but will more often than not provide essential information in case of an emergency.



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5. CMBA Accreditation Committee Membership

ATMS provides the following comments in response to the questions posed by the CMBA.

(i) Do you agree with the proposed inclusion of at least one educationalist, at least one Chinese medicine academic, at least one Chinese medicine practitioner and at least one biomedical sciences academic?

ATMS believes that there should be a minimum two Chinese medicine practitioners. This is to not only reflect their exclusive expertise in the primary matter to be considered by the Accreditation Committee – that is what is required to be ‘learnt’ in order to practise Chinese medicine safely and effectively – but also reflects the reality that often a Chinese medicine practitioner will practise near exclusively either as an acupuncturist or Chinese herbalist.

(ii) Do you think there should be additional sub-criteria for the selection of the above persons and if so what they should be?

It follows from the above that ATMS recommends that the two Chinese practitioner members be in active practice in either acupuncture or Chinese herbs, but that the members not both practice the same modality (unless one genuinely does practice both modalities in their day to day practice.)

(iii) Do you think a Board member should be on the Accreditation Committee?

ATMS believes there could be useful synergies that develop between the Accreditation Committee and the CMBA if a CMBA member was included on the Accreditation Committee. So although not essential, ATMS would support that a CMBA member be included in the Accreditation Committee.

(iv) Do you think a community representative should be on the Accreditation Committee?

No. ATMS sees no benefits from involving a community representative on the Accreditation Committee. In saying this ATMS does acknowledge the skills and insights a community representative can bring to many forums, for example a complaints handling forum, an advertising forum etc. However these skills and insights would be of little, if any, benefit in assessing and accrediting education standards and delivery. There is also the additional cost that would need to be met by the profession.

(v) How many members do you think the Committee should have?

Five to six members - being one educationalist, one Chinese medicine academic, two Chinese medicine practitioners, one biomedical sciences academic and with the possible inclusion of a member of the CMBA Board – seem appropriate. The Accreditation Committee should however definitely be able to co-opt further members as required to assist with increased workloads or provide alternate members if conflicts of interest arose.



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CONCLUSION

Thank you for allowing ATMS the opportunity to comment on the preceding five topics. In addition to the above response, ATMS is happy to provide any further information or commentary as requested by the Chinese Medicine Board of Australia.

Matthew Boylan

Chief Executive Officer

Australian Traditional-Medicine Society Ltd (ATMS)

9 January 2012