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3 January 2011

Ms Debra Gillick
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Chinese Medicine Board of Australia
Australian Health Practitioner Regulation Agency
GPO Box 9958
MELBOURNE VIC 3001

Dr Ms Gillick

Re: Submission on 'Codes and Guidelines' - Chinese Medicine Board of Australia

Thank you for the opportunity to provide feedback on the proposed 'Codes and Guidelines' for the Chinese Medicine Board of Australia.

1. Advertising Guidelines

The CMBA proposes the following change.

That the psychology-specific section on pages 19-20 which reads as follows:

The Psychology Board of Australia has developed specific advice for its profession. It advises registered psychologists 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).

be replaced with the following section which is a specific concern in Chinese medicine:

In Australia and New Zealand, the titles 'Professor' and 'Associate Professor' are used by academics and can only be used by an individual while that person is currently employed by the conferring higher education institution in that role. The right to use the title is extinguished on resignation or retirement from the institution. The exception is an Emeritus Professor who may use that title for life. In Australia the use of the title 'Professor' or 'Associate Professor' directly implies that the person is currently employed in that role in an Australian University. 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. Should the Board have reservations about an individual's legitimacy in carrying any title, it has the authority to investigate.

Do you agree with the proposed modification?

nib health funds agree with the proposed change.

2. Guidelines for mandatory Notifications

The 10 National Boards have developed guidelines to help explain the National Law requirements for registered health practitioners, employers of practitioners, and education providers to make mandatory notifications (complaints) to prevent the public being placed at risk of harm. The guidelines explain how the National Boards will interpret the mandatory notification requirements.

The Guidelines aim 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.

The mandatory notification requirements under the National Law will also apply to the Chinese medicine profession from 1 July 2012, and these notifications are about serious matters of conduct and impairment. It is important for the National Boards to provide clear and consistent guidance for all professions on this matter. The Board therefore considers it appropriate to implement the current guidelines to help guide the profession.

Is there further profession-specific guidance that needs to be included in the Guideline for Mandatory Notifications (keeping in mind that this codes is currently common across the ten health professions currently regulated under the NRAS)?

nib health funds have no further recommendations.

3. Code of Conduct

The common Code of Conduct developed by the 10 National Boards seeks to help and support registered health practitioners to deliver effective health services within an ethical framework. Practitioners have a duty to make the care of patients or clients their first concern and to practise safely and effectively. Maintaining a high level of professional competence and conduct is essential for good care.

The Code contains 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.*

Chinese medicine practitioners commonly work within ethical and professional conduct frameworks – some are set by their employers, others by professional associations. With the move to national registration, there is an opportunity for the Board to develop a common and national code of conduct to guide the profession, and to clarify the Board's expectations of registrants. Page 5
The Board considers it appropriate to use the current common Code of Conduct as a basis to help guide the profession with a proposal to make one change.

The CMBA proposes the following change.

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:

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

The Board welcomes views on this proposal, and whether there are areas specific to the profession that need to be included in the Code of Conduct finalised for the profession.

Do you agree with the proposed modification?

nib health funds agree with the proposed change.

Is the profession-specific guidance that needs to be included in the Code of Conduct (keeping in mind that this codes is currently common across the ten health professions currently regulated under the NRAS)?

nib health funds recommends that the following also be included within the Code of Conduct.

Practitioners must not:

raise a charge and submit a claim for one's self for 'self-assessment' and/or 'self-treatment' to a third party for financial gain (for example, Health Insurance, Workers compensation, etc)

4. Patient records:

Chinese medicine practitioners must create and maintain clinical records that serve the best interests of patients and that contribute to the safety and continuity of their Chinese medicine care. An adequate record of every patient consultation is an essential part of competent Chinese medicine practice.

The rationale for accepting that records may be created in another language is that the purpose of the record is to create an accurate record with adequate detail of all of all the relevant matters. This may be more effectively achieved in the practitioner's native language. The draft guideline (see page 60) states that if a copy of a patient's record is requested by the patient, or required by the Board or an authorised third party, it is the responsibility of the practitioner to provide at their own expense an English translation of the patient's records or cover the cost of this service. The Board is concerned, however, that:

- when a practice closes the burden of translation is shifted to the consumer*
- records should also be able to be read by any other healthcare practitioner*
- there is an explicit expectation in the National Law that practitioners have English proficiency.*

Only one other of the national boards has issued guidelines on clinical/patient records, the Podiatry Board of Australia.

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?

nib health funds recommends that a principle statement be included within the Codes and Guidelines (1 July 2012 publication) under the condition that upon the request of non-English records that it is the responsibility of the practitioner to provide at their own expense an English translation of the patient's records or cover the cost of this service.

Ideally, nib health funds would like to see *all* patient records kept in English; however, we agree with the board's rationale for accepting records in the practitioner's native language. We also agree with the Board's concerns surrounding this point.

Based on the volume of complaints received specific to the concerns raised by the Board, the Board may wish to mandate the creation of clinical records in English when these Codes and Guidelines are reviewed in the future.

Please do not hesitate to contact me for further information.

Kind regards



Cory Christiansen

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