

Public consultation paper

19 December 2014

You are invited to provide feedback on this public consultation

Draft limited registration standard

- Limited registration for teaching or research

You are invited to provide feedback

The proposed registration standard is found at **Attachment A**.

Please provide written submissions by email, marked 'Consultation – Draft limited registration standard for teaching or research' to chinesemedicineconsultation@ahpra.gov.au by close of business on 13 February 2015.

Submissions for publication on the Board's website should be sent in a Word document (or equivalent)¹.

Submissions by post should be addressed to the Executive officer, Chinese Medicine, AHPRA, GPO Box 9958, Melbourne 3001.

¹ You are welcome to supply a PDF file of your feedback in addition to the word (or equivalent) file, however we request that you do supply a text or Word file. As part of an effort to meet international website accessibility guidelines, AHPRA and National Boards are striving to publish documents in accessible formats (such as Word), in addition to PDFs. More information about this is available at www.ahpra.gov.au/About-AHPRA/Accessibility.aspx.

Public consultation

The Chinese Medicine Board of Australia (the Board) is releasing the attached consultation paper on a draft *Limited registration standard for teaching or research*. You are invited to provide your comments on the consultation paper, including the questions in the paper, by 13 February 2015.

How your submission will be treated

Submissions will generally be published unless you request otherwise. The Board publishes submissions on its website to encourage discussion and inform the community and stakeholders. However, the Board retains the right to not publish submissions at its discretion, and will not place on its website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the consultation.

Before publication, the Board will remove personally identifying information from submissions, including contact details. The views expressed in the submissions are those of the individuals or organisations who submit them and their publication does not imply any acceptance of, or agreement with, these views by the Board.

The Board also accepts submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other information that may be sensitive or may identify an individual or party. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence.

Please let the Board know if you do not want your submission published, or want all or part of it treated as confidential, as well as a brief explanation of why it should be kept confidential.

Summary

1. This consultation paper seeks feedback on a draft registration standard for limited registration for teaching or research.
2. This standard will apply to Chinese medicine practitioners who are not eligible for general registration but who have Chinese medicine qualification/s relevant to, and suitable for, a teaching or research position to which their application relates and who meet the other requirements of the Board. Where any clinical practice is involved, such positions will be subject to supervision requirements. Clinical practice opportunities beyond the teaching or research positions approved are, at present, not contemplated by the Board.
3. The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law) empowers the Board to develop and recommend to the Australian Health Workforce Ministerial Council (Ministerial Council) registration standards about the eligibility of individuals for registration or the suitability of individuals to competently and safely practise the profession. The Ministerial Council may approve a registration standard recommended by the Board.
4. Under section 38(2)(c) of the National Law, the Board may develop and recommend to the Ministerial Council registration standards about the eligibility of individuals for registration or the suitability of individuals to competently and safely practise the profession. Under section 12, the Ministerial Council may approve a registration standard recommended by the Board.
5. The Board developed a *Grandparenting and general registration eligibility registration standard* under the National Law. This standard was approved by the Ministerial Council and came into effect on 1 July 2012 following wide-ranging consultation. This registration standard ceases effect from 1 July 2015. From that date applicants for general registration must meet the requirements of section 53 with regard to qualifications for general registration.
6. Limited registration allows practitioners who do not hold an approved qualification for general registration (usually internationally qualified practitioners) to provide health services with a limited scope (under supervision where appropriate) in Board approved positions.

7. The National Law empowers the Board to grant limited registration as a Chinese medicine practitioner to persons who are not qualified or eligible for general registration but who meet the requirements for the relevant type of limited registration set out in sections 65 – 72 of the National Law.
8. Limited registration can be granted as per Part 7, Division 4 of the National Law for:
 1. Postgraduate training or supervised practice (section 66)
 2. Area of need (section 67)
 3. Public interest (section 68)
 4. Teaching or research (section 69)
9. The first three types of limited registration are less likely to be relevant in Chinese medicine.
 - There is no current course-work post-graduate course in Chinese medicine in Australia which requires a person to be registered (other than student registration).
 - Currently under grandparenting the Board has granted general registration subject to supervised practice requirements. It is not envisaged that the Board will need limited registration for supervised practice unless the Board were, for example, to establish a post-grandparenting registration examination and allow practitioners to practise under supervision with limited registration while preparing/waiting to sit an exam. This is not currently envisaged.
 - Area of need is decided by the responsible Minister, and exists in the National Law primarily to deliver western medical services across Australia
 - Public interest limited registration is intended to be for a limited time, or for a limited scope, in the public interest. It generally applies in unexpected situations, such as where a natural disaster has occurred or a pandemic has been declared or for an expert to demonstrate a procedure or participate in a workshop. It is not an alternative for limited registration for area of need.
10. Limited registration may, however, be needed in Chinese medicine for teaching and research purposes, for example, a university appointment.
11. Should a situation arise, the Board could grant other forms of limited registration as a one-off, if appropriate, without developing a standard, as follows:
 1. Section 65 of the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law) provides that an individual is eligible for limited registration in a health profession if the individual is not qualified for general registration in the profession or specialist registration in a recognised specialty in the profession and where the individual is qualified for limited registration under Division 4 of Part 7 of the National Law and meets prescribed suitability requirements, and the requirements for registration stated in an approved registration standard for the health profession.
 2. Division 4 of Part 7 of the National Law (sections 66 – 67) sets out a number of instances where limited registration could be granted, including in the context of postgraduate training or supervised practice (section 66), an area of need (section 67), in the public interest (section 68) and in respect of teaching or research (section 69). The Board's powers to grant limited registration are confined to the requirements of Division 4 of Part 7 of the National Law. The Board could grant limited registration without reference to a registration standard that sets out requirements specific to that particular form of limited registration on a one off basis, but it would have to be within the prescribed requirements and the context(s) set out under the National Law.
 3. However, the Board would exercise caution in granting limited registration on a one-off basis. Registration standards provide guidance to Boards in the assessment of the requirements of the National Law and ensures consistency and transparency in decision-making. *Ad hoc* decisions could lead to inconsistency, a lack of transparency and possible criticism. As the granting of limited registration for postgraduate training or supervised practice, area of need or public interest would be limited to infrequent and confined circumstances, the drafting of further registration standards is not necessary. The Board will however, seek legal advice on a case by case basis where it considers it appropriate to exercise the power to grant limited registration on a one-off basis.
12. The draft registration standard in Attachment A sets out the Board's requirements for an initial application for, and renewal of, limited registration for teaching or research.
13. The draft standard is based on a 'template' developed within the Australian Health Practitioner Regulation Agency (AHPRA) to ensure the standard is:

- user-friendly and provides some flexibility
- clearly sets out the requirements using simple wording
- strikes an appropriate balance between protecting the public and impact on registrants and applicants

14. The proposed registration standard sets out the Board's requirements for an initial application for, and renewal of limited registration for teaching or research.

Options statement

15. The Board has considered a number of options in developing this proposal.

Option 1 – Status quo (no standard)

16. Since transition to the National Registration and Accreditation Scheme, and during the period when the transitional arrangements (grandparenting) as per section 303 of the National Law have applied, there has been no approved standard for limited registration.

17. During this limited time all applicants for Chinese medicine registration have applied for general registration.

18. The grandparenting registration standard ceases effect from 1 July 2015. From that date applicants for general registration must meet the requirements of section 53 with regard to qualifications for general registration

Option 2 – Develop a standard (preferred option)

19. The Board does not anticipate large numbers of applications for limited registration. The Board has taken into account current Chinese medicine workforce and education and employment patterns in the Chinese medicine profession. The draft registration standard addresses the single example of when the Board considers limited registration may be required – that is, limited registration for teaching or research. There may be other situations when limited registration is required (for example in the public interest) but the Board considers this will be a rare occurrence and will assess any such applications on a case by case basis, taking into account the objectives and guiding principles of the National Law. The Board is interested in feedback on this approach.

20. Under the National Law, the Board has a statutory responsibility to protect the public and a statutory function to develop standards for the profession where needed to clearly state the Board's requirements and expectations.

21. Option 2 involves the Board submitting a registration standard for limited registration for teaching and research to the Ministerial Council for approval. The registration standard would outline the Board's requirements for this type of limited registration.

Preferred option

22. The Board prefers Option 2.

Issues for consultation

Potential benefits and costs of the standard

23. Chinese medicine practitioners can become registered if they complete an approved course in Chinese medicine or, until 30 June 2015, if they meet the transitional arrangements (grandparenting) as per section 303 of the National Law and the other requirements for registration.

24. From 1 July 2015 the 'grandparenting' option is no longer available. From the experience of the former Victorian board, the National Board anticipates that educational and other institutions will from time to time wish to engage overseas Chinese medicine practitioners for teaching and research purposes.

25. This registration standard provides for the protection of the public by ensuring that only Chinese medicine practitioners who are suitably trained and qualified to conduct Chinese medicine teaching and research in a competent and ethical manner are registered.

26. This registration standard supports the provision of high quality education and research in Chinese medicine, in the public interest.

Estimated impacts of the guidelines

27. There are no negative impacts on practitioners, business and other stakeholders anticipated. However, this will be tested at consultation.

The Board is interested in your feedback about the draft guidelines

28. Specific questions we would like you to address are:

- Q1. Do you agree that of the four types of limited registration, limited registration for teaching and research is the most relevant and likely to be required?
- Q2. Do you agree with the Board's proposed approach to the possibility of granting other types of limited registration in the future?
- Q3. Are there implementation issues related to this draft registration standard that the Board should be aware of?
- Q4. Do you agree with the requirement that if the limited registration is for more than four weeks, details of a professional development plan that is relevant to the teaching or research activities and any clinical practice must be provided?
- Q5. Is the content and structure of the draft registration standard helpful, clear, relevant and workable?
- Q6. Is there any content that needs to be changed or deleted in the draft registration standard?
- Q7. Should the review period be two, three or five years?
- Q8. Do you have any other comments on the draft registration standard?

29. The Board's draft statement of assessment against AHPRA's Procedures for development of registration standards and COAG Principles for best practice regulation is included as Attachment B. Comments about this are welcome too.

Relevant sections of the National Law

30. Relevant sections of the National Law are sections 38, 65 – 72, 77 – 75 and 109.

Next steps

31. The Board will consider the consultation feedback on the draft registration standard before finalising it for approval by the Australian Health Workforce Ministerial Council.

Please provide feedback in a Word document by email to chinesemedicineconsultation@ahpra.gov.au by close of business on 13 February 2015.

Attachments

- A. Draft *Registration standard limited registration for teaching or research*
- B. Board's *Statement of assessment* against AHPRA's Procedures for development of registration standards, codes and guidelines and COAG Principles for best practice

Registration standard: Limited registration for teaching or research

Effective from: <<date>>

Review date: <<date>>

This registration standard sets out the Chinese Medicine Board of Australia's (the Board) requirements for an application for, and renewal of, limited registration for teaching or research.

Does this registration standard apply to me?

This registration standard applies to individuals who apply for:

- limited registration for teaching or research, or
- renewal of limited registration for teaching or research.

Chinese medicine practitioners who are qualified for general registration are not eligible for limited registration.

What must I do?

When you apply for registration

To meet this registration standard, you must:

4. meet the requirements in the Board's approved registration standards for:
 - 4.1 English language skills – see the Board's English Language Registration Standard at www.chinesemedicineboard.gov.au/Registration-Standards.aspx
 - 4.2 recency of practice – provide a curriculum vitae as per the requirements published at www.ahpra.gov.au/Registration/Registration-Process/Standard-Format-for-Curriculum-Vitae.aspx
5. meet, or commit to meet, the requirements in the Board's approved registration standards for:
 - 5.1 professional indemnity insurance, and
 - 5.2 continuing professional development.
6. satisfactorily complete a criminal history check in accordance with guidance issued from time to time by the Board or the Australian Health Practitioner Regulation Agency (AHPRA) – this is arranged by AHPRA when you first apply
7. comply with the Board's proof of identity policy as published on either the Board or AHPRA websites
8. provide evidence of having been awarded a qualification that is relevant to and suitable for limited registration for the planned teaching or research position
9. provide details of past registration history including certificates of good standing/registration status from each registration authority with which the applicant has held registration in the

previous 10 years. The documents should be supplied directly to the Board from the relevant registration authority where possible.

10. provide the following information from your proposed employer or sponsor (if not employed):
 - 10.1 written confirmation of offer of employment/engagement
 - 10.2 employer or sponsor contact details
 - 10.3 position description including key selection criteria, and details of all responsibilities, and the qualifications and experience required to meet the requirements of the position/s. This should also contain details of the teaching or research activities and any clinical practice that will be carried out
 - 10.4 name, qualifications and contact details of the proposed clinical supervisor/s if clinical practice will be carried out
 - 10.5 if registration is for more than four weeks, details of a professional development plan that is relevant to your teaching or research activities and any clinical practice, and
 - 10.6 if you will be demonstrating a procedure or participating in a workshop:
 - 10.6.1 details of the clinical activities that you will be doing
 - 10.6.2 the location/s of clinical activities,
 - 10.6.3 the organisation that will auspice any demonstration or workshop.
11. all clinical practice must be supervised regardless of the length of time. However, if you are applying for registration for less than four weeks, for example, to demonstrate a procedure or participate in a workshop, supervision is required (and there should be a record addressing the requirements set out in paragraphs 9.1, 9.2 and 9.3 but a detailed supervision plan does not need to be submitted to the Board for approval.
12. for periods of over four weeks which involve clinical practice, a supervision plan must be prepared in accordance with the Board's guidelines for the supervision of Chinese medicine practitioners. See the *Codes and guidelines* section of www.chinesemedicineboard.gov.au. The supervision plan must include:
 - 12.1 details about the supervisor/s
 - 12.2 a description of how supervision will be provided to ensure safe practice, and
 - 12.3 written confirmation from the proposed supervisor that they agree to provide supervision and comply with supervision obligations as required by the Board.

During the registration period

You are required to comply with a range of requirements while you have limited registration for teaching or research. These include:

13. compliance with the supervision plan approved by the Board, if you are undertaking clinical practice
14. compliance with the Board's registration standard for continuing professional development (excluding practitioners demonstrating procedures or participating in workshops who have been granted registration for no more than four weeks)
15. ensuring that your supervisor/s provide regular reports to the Board regarding your work performance as required by the Board and as described in the Board's guidelines for the supervision of Chinese medicine practitioners, if you are undertaking clinical practice. See the *Codes and guidelines* section of www.chinesemedicineboard.gov.au.
16. performing satisfactorily in the position for which you are registered, and
17. restricting your practice to the Board approved position/s.

If you do not maintain your employment in the Board approved position for which limited registration for teaching or research is granted, you are unable to comply with the requirements on your practice and therefore cannot practise Chinese medicine until registration is granted for a new position.

When you apply for renewal

When you apply to renew your limited registration, you must:

18. complete a renewal of registration application that includes the annual renewal statement
19. demonstrate compliance with any conditions or undertakings imposed on your registration or requirements on your registration set by the Board
20. submit work performance reports in accordance with the Board's guidelines for the supervision of Chinese medicine practitioners (see the *Codes and guidelines* section of www.chinesemedicineboard.gov.au), and
21. demonstrate that you have performed satisfactorily in the preceding registration period. This is usually demonstrated through the submission of work performance reports. The Board may also require you to complete an examination and/or assessment to demonstrate satisfactory performance.

Refusal to renew limited registration

The Board may refuse to renew your registration if:

22. you are no longer in the specific position which was approved by the Board for your limited registration, or
23. you do not comply with the Board approved supervised practice plan and the Board's requirements for supervision, if you are undertaking clinical practice, or
24. you do not comply with the Board's registration standard for continuing professional development (excludes practitioners demonstrating procedures or participating in workshops who have been granted registration for no more than four weeks).

Period of limited registration

Up to 12 months of limited registration can be granted by the Board. The National Law states that limited registration may not be renewed more than three times. After three renewals of limited registration a Chinese medicine practitioner who wishes to continue to practise will have to make a new application for registration.

What happens if I don't meet this registration standard?

The National Law establishes possible consequences if you don't meet this registration standard, including that:

- a Board can impose a condition or conditions on your registration or can refuse an application for registration or renewal of registration when you don't meet a requirement in an approved registration standard for Chinese medicine (sections 82 and 112 of the National Law), and
- registration standards, codes or guidelines may be used in disciplinary proceedings against you as evidence of what constitutes appropriate practice for Chinese medicine (section 41 of the National Law).

Applications for variation a change in circumstances

If you hold limited registration and you want to apply for another type of limited registration, you must make a new application.

If you hold limited registration for teaching or research and you want to change the Board approved position (such as changing location, adding work sites, changing the scope of practice, applying for a new position with a new employer, etc.) within the same type of registration (i.e. limited registration for teaching or research), you must apply for approval of a change in circumstances.

Applications for a change in circumstances must be made on an approved form and you will be charged a fee. You must provide:

- the same information as set out under 'When you apply for registration' in paragraph 7, and
- a work report from your previous supervisor.

More information

Limited registration for teaching or research is an appropriate type of registration for Chinese medicine practitioners who will be practising in a teaching or research position. Clinical practice is allowed if it is directly related to teaching or research; however, more than 50 per cent of the practice must involve the teaching or research. This must be made clear in the documentation submitted.

This may be an appropriate type of registration for Chinese medicine practitioners who are demonstrating a particular procedure or leading a workshop as they are teaching; however:

- the [definition of practice](#) was intended to be broad and inclusive
- by being registered, health practitioners can use the protected title related to their profession
- the definition of practice does not require all people who engage in activities that fall within the definition to be registered
- the National Law does not define the activities that require registration as a particular health practitioner
- it is up to each individual to decide whether they should apply for registration
- the National Boards consider that health practitioners should be registered if they are providing treatment or opinion about the physical or mental health of a person, including prescribing or formally referring to other registered health practitioners, or when a person may reasonably believe that the health practitioner is registered
- the examples of when health practitioners should be registered include when the practitioner's professional peers and the community would expect a person in that role to comply with the relevant Board's registration standards
- the examples of when health practitioners may not require registration include:
 - settings involving persons demonstrating examination or consulting techniques but not the actual delivery of care
 - a practitioner who has been invited to talk publicly about a health or medically-related topic and who will not be giving any specific advice
 - a course presenter from overseas who uses a protected title with words explaining their registration status in Australia, e.g. registered in Hong Kong, or not registered in Australia

The Board establishes requirements under this registration standard to ensure safe and competent practice for the period of limited registration. The Board will record the details of the limited practice that apply to a Chinese medicine practitioner granted limited registration on the Register of Chinese medicine practitioners pursuant to section 225(p) of the National Law.

The AHPRA website (www.ahpra.gov.au) includes more detailed information about the requirements for:

- providing proof of identity
- certifying documents, and
- what to include in a curriculum vitae.

Authority

This registration standard was approved by the Australian Health Workforce Ministerial Council on <<DATE>>.

Registration standards are developed under section 38 of the National Law and are subject to wide ranging consultation.

Definitions

Limited registration is a type of registration available to individuals who do not qualify for general registration. Each type of limited registration has a specific purpose which is defined in Part 7, Division 5 of the National Law. The four types of limited registration are:

- limited registration postgraduate training or supervised practice
- limited registration for area of need
- limited registration for teaching or research, and
- limited registration in the public interest.

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

National Scheme means the National Registration and Accreditation Scheme.

Supervision plan means a plan that sets out the arrangements or proposed arrangements for clinical supervision of the Chinese medicine practice of the applicant for registration or of a registered practitioner.

Review

This registration standard will be reviewed from time to time as required. This will generally be at least every five years or earlier if required.

DRAFT

Statement of assessment

Chinese Medicine Board of Australia's statement of assessment against AHPRA's Procedures for development of registration standards and COAG Principles for best practice regulation

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the development of registration standards* and *Procedures for consultation* which are available at: www.ahpra.gov.au/Legislation-and-Publications/AHPRA-Publications.aspx#procedures.

Below is the Chinese Medicine Board of Australia's (the Board) assessment of its proposed registration standard against the three elements outlined in the AHPRA procedures.

1. The proposal takes into account the National Registration and Accreditation Scheme's objectives and guiding principles set out in section 3 of the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

Board assessment

The Board considers that the draft *Limited registration standard for teaching or research* meets the objectives and guiding principles of the National Law.

The standard if approved, will balance the National Law objectives of providing for the protection of the public and facilitating high quality education of Chinese medicine practitioners. The draft registration standard will ensure that Chinese medicine practitioners with this type of limited registration are appropriately supervised and engaged in teaching and research positions that are appropriate for their current level of training, knowledge and skills.

This will assist Chinese medicine practitioners to meet their obligation to provide quality services.

The publication of this standard will support the National Scheme to operate in a transparent, accountable, efficient, effective and fair way.

2. The consultation requirements of the National Law are met

Board assessment

The National Law requires wide-ranging consultation on proposed registration standards. The National Law also requires the Board to consult other Boards on matters of shared interest. This is initially addressed in this preliminary consultation.

The Board will then ensure that there is public exposure of its proposal and the opportunity for public comment by undertaking an eight week public consultation process. The process will include the publication of the consultation paper (and attachments) on its website.

The Board has drawn this paper to the attention of selected stakeholders including the other National Boards.

The Board will take into account the feedback it receives when preparing this registration standard for public comment.

3. The proposal takes into account the Council of Australian Governments (COAG) Principles for best practice regulation

Board assessment

In developing the draft *Limited registration standard for teaching or research*, the Board has taken into account the COAG principles.

As an overall statement:

- the Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community, and
- is conducting wide-ranging consultation to inform this goal.

The Board makes the following assessment specific to each of the COAG principles expressed in the AHPRA procedures.

COAG principles

A. Whether the proposal is the best option for achieving the stated purpose and protection of the public.

Board assessment

The Board considers that its proposal is the best option for achieving the stated purpose.

The Board considers that the standard will have a low impact on the profession, and any prospective impact would be significantly outweighed by the benefits of protecting the public by supporting the delivery of high quality education.

B. Whether the proposal results in an unnecessary restriction of competition among health practitioners.

Board assessment

The Board considered whether its proposals could result in an unnecessary restriction of competition among health practitioners seeking to be engaged in Chinese medicine education and research. The proposal is not expected to impact negatively on the current levels of competition among such health practitioners.

C. Whether the proposal results in an unnecessary restriction of consumer choice.

Board assessment

The Board considers that the draft guidelines will support consumer choice, by supporting the delivery of high quality education in Chinese medicine.

D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved.

Board assessment

The Boards considered the overall costs of the registration standard to members of the public, registrants and governments and concluded that costs, if any, are appropriate. Educational institutions teaching Chinese medicine programs or conducting Chinese medicine research are already engaging appropriate staff and this standard expands their choices with regard to suitably qualified persons.

E. Whether the requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants

Board assessment

The Board aims to ensure that this standard is written in plain English that will help stakeholders to understand the requirements.

F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time

Board assessment

The Board will review this registration standard at regular intervals and include an assessment against the objectives and guiding principles in the National Law and the COAG Principles.

One of the consultation questions is, 'Should the review period be two, three or five years?' Whatever the review period is, the Board may choose to review the registration standard earlier, in response to any issues which arise or new evidence which emerges to ensure the standard's continued relevance and workability.