



Chinese medicine regulation in Australia

Chinese Medicine Board of Australia (CMBA)

2018

Please silence or switch off your mobile devices

Thank you

Today's program

1. Role of AHPRA and CMBA
2. Update: notifications trends
3. Update: other matters
4. Questions and discussion
5. Networking and refreshments

Charlie Xue

Rod Martin

David Graham

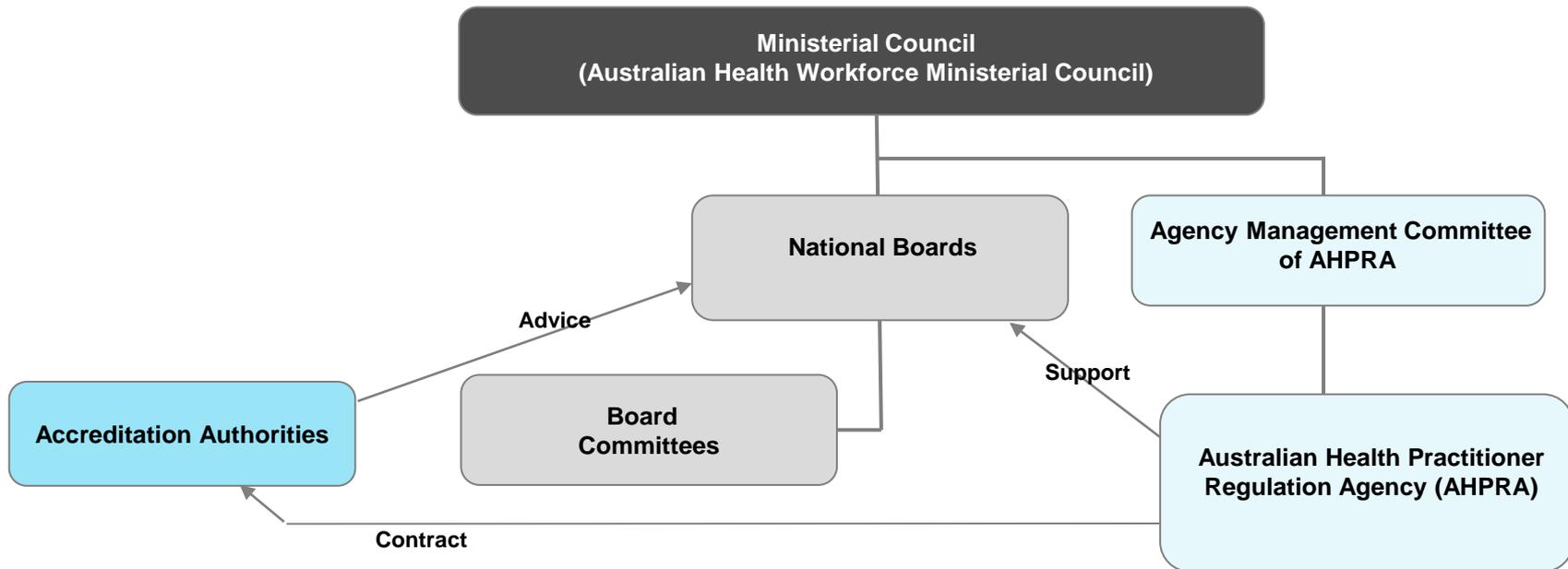
The National Scheme: why, what and how

- The Council of Australian Governments (COAG) established the National Registration and Accreditation Scheme (the National Scheme)
- The Health Practitioner Regulation National Law 2009 (the National Law) supports:
 - **mobility:** practise anywhere in Australia
 - **uniformity:** consistent national performance
 - **efficiency:** less red tape – streamlined
 - **collaboration:** sharing, learning and understanding between professions
 - **transparency:** online registers – including showing any restrictions on practice.

Key features

- **National system** – 14 health professions
- **Public national register** provides a single public record of:
 - registered health practitioners
 - conditions and undertakings
 - deregistered practitioners
- Consistent handling of **notifications/complaints**
- **Programs of study** approved by the Board

Structure of the National Scheme



Who does what? Working together

National Boards

Main roles are to:

- register practitioners
- set requirements and standards
- deal with notifications (complaints)*
- approve accreditation standards
- approve courses for registration

AHPRA

Main roles are to:

- administer the Scheme
- support National Board decision-making
- be the first contact point for all enquiries about registration and notifications

Accreditation agencies

Main roles are to:

- develop accreditation standards for Board approval
- accredit and monitor programs of study
- submit accredited programs of study to Board for approval

*except in **New South Wales** which has a **co-regulatory arrangement** in relation to management of notifications and in **Queensland** where AHPRA manages less-serious matters

Members

Di Wen Lai
Practitioner member
from Western Australia



Roderick Martin
Practitioner member
from Queensland



Virginia Ryan
Community member
from Queensland



Christine Berle
Practitioner member
from New South Wales



Dr Liang Zhong Chen
Practitioner member
from South Australia



Dr David Graham
Community member
from ACT

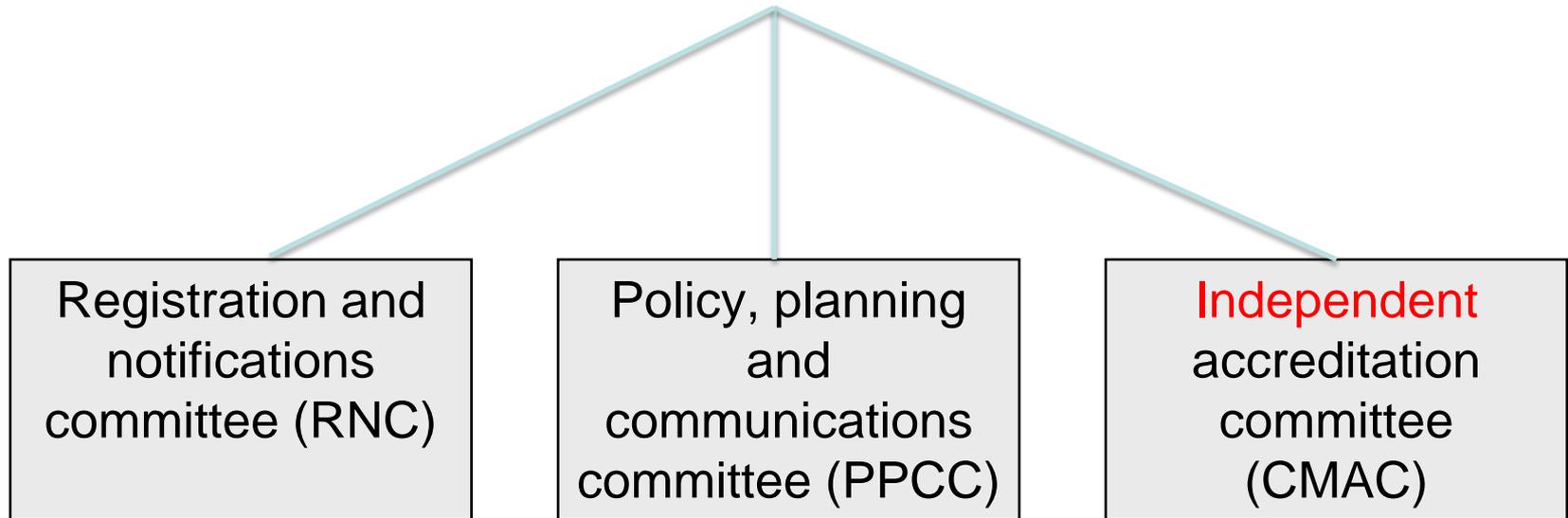


Professor Charlie Xue
Chair and practitioner member
from Victoria



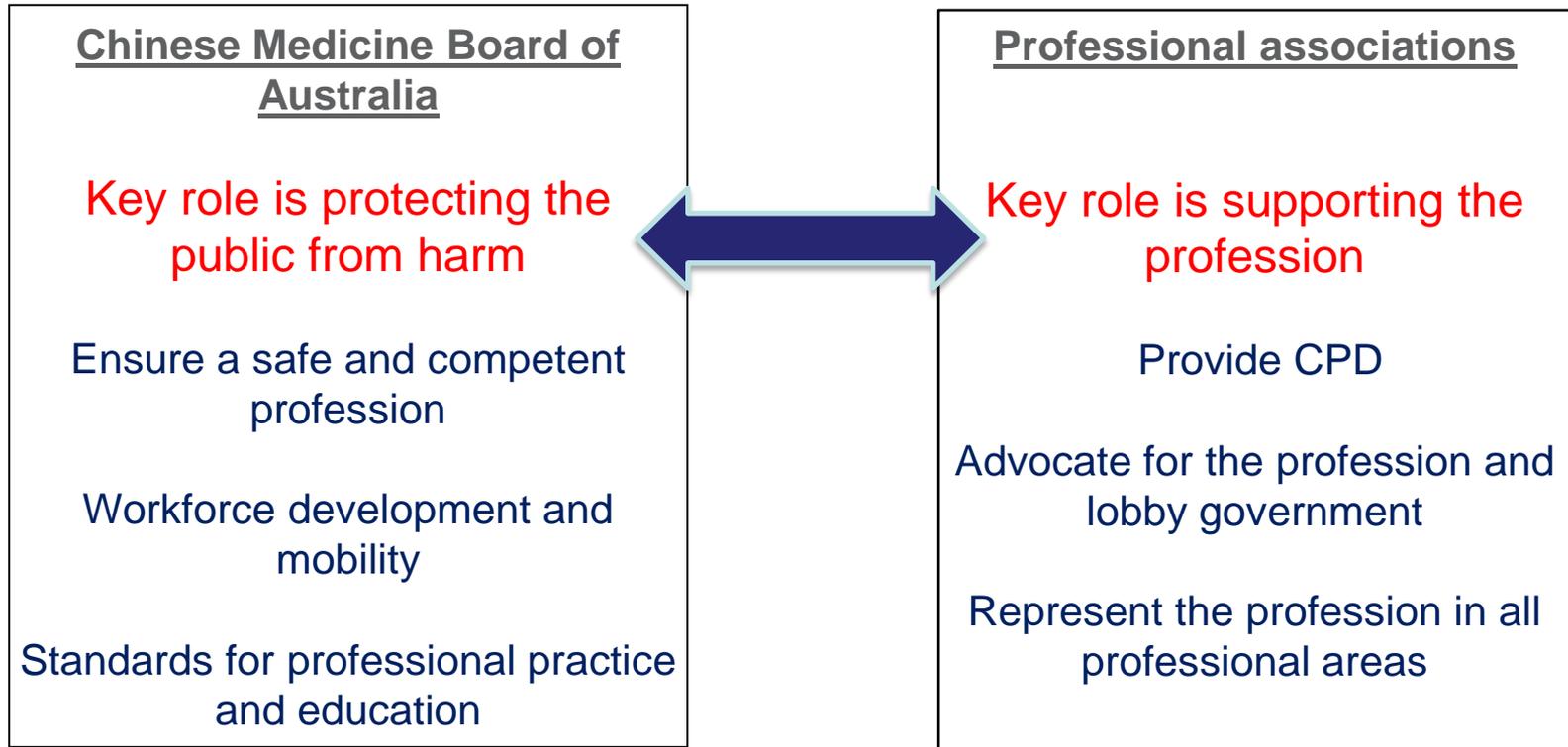
David Brereton
Community member
from Tasmania

Chinese Medicine Board of Australia (CMBA)



The *different* roles of the CMBA and professional associations

The CMBA and associations have entirely *different* purposes



Not within the Board's authority

Dry needling

- See handout provided
- If evidence of providing an unsafe service:
 - For unregistered persons: dealt with by the States/Territories Health Complaints Entity (details in handout)
 - For registered practitioners notify relevant Board via AHPRA

Health care funding: Medicare and private insurance

- Not related to public safety
- A matter for your professional associations

Numbers registered at 31 December 2017

Total registered practitioners 31 December 2017	4,905	%
1 division	1,840	37.51%
2 divisions	2,217	45.2%
3 divisions	848	17.29%
Registered as an acupuncturist	4,787	97.59%
Registered as Chinese herbal medicine practitioner	3,116	63.52%
Registered as a Chinese herbal dispenser	915	18.18%

Progress

1. Registration established and grandparenting implemented
2. Board's finances stabilised
3. Stakeholder engagement established

Quite unique challenges inherent in:

- *grandparenting*
- *the English language standard*
- *bringing the profession into new statutory scheme*

May 2017 visit to China

Benefits of the visit:

- sharing of experiences with other regulators
- raising the profile of Chinese medicine in Australia
- comparing educational standards

Update on notifications (complaints and concerns) trends

Roderick Martin

Practitioner Board Member CMBA

What are notifications?

- Complaints and concerns about registered health practitioners
- Anyone can raise a concern

Notification categories

- Health (impairment)
- Practitioner's conduct
- Practitioner's performance

Notifications received 2015/16

- 80 complaints and concerns

Complaints: Co-regulatory jurisdictions

- In **NSW**: investigation of notifications is with the NSW Health Professions Councils Authority (HPCA) and the Health Care Complaints Commission (HCCC)
- AHPRA can take no action about Chinese medicine notifications except to refer (within HPCA) to the **Chinese Medicine Council of NSW**
- In **Queensland**: Health Ombudsman Act 2013 (co-regulatory arrangements) commenced on 1 July 2014
- Health Ombudsman (HO) receives all complaints

Basis for complaints and concerns

Where a registered health practitioner:

- did not provide safe care
- lacks reasonable knowledge, skill or judgment
- is not 'suitable' to be registered
- is (or may be) ill and poses a risk to the public
- has (or may have) broken the National Law
- breached a condition of registration
- obtained registration improperly

Common reasons for complaints/concerns

61 notifications lodged with AHPRA and the HPCA: 2016-17

Most serious issues:

- Breach of a registration standard/endorsement
- Inadequate or inappropriate treatment (inc. several pneumothorax events)
- Breach of infection control procedure or standards
- Inappropriate sexual relationship / sexual criminal offence / inappropriate sexual comments
- Registration obtained using false or misleading information
- Inappropriate fees or billing practices
- Mental illness
- Unnecessary treatment/over servicing
- Use of protected title(s) or specialist title(s)
- Inappropriate advertising

Possible outcomes from a complaint or concern

- Immediate action (if there is an urgent risk to the public)
- No further action
- Caution, undertaking, conditions on registration
- Panel or tribunal hearing
- Suspension or cancellation of registration

Other activities

Dr David Graham

Community Board Member CMBA

Chair, Policy, Planning and Communications Committee (PPCC)

Some items on the PPCC work program

Communications

- Reviews of PII, RoP, CPD standards , Code of Conduct
- Advertising advice and guidelines
- CMBA Reference Group

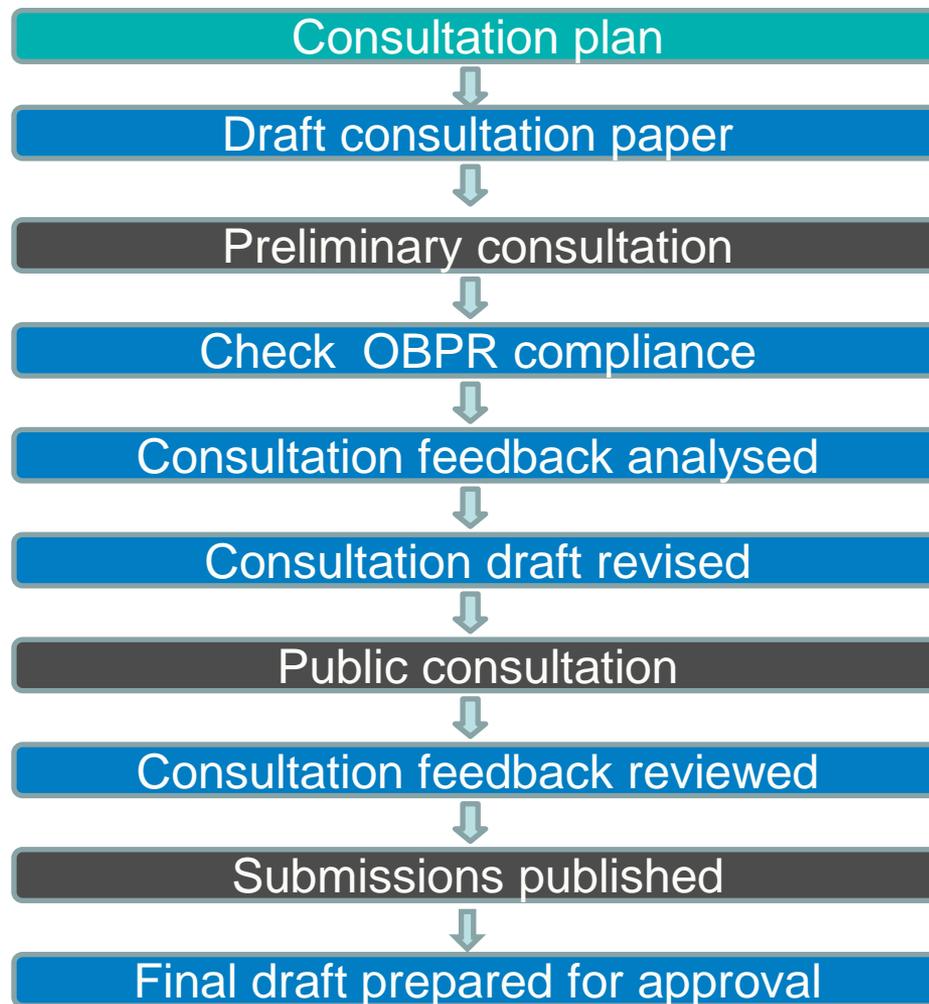
Planning

- Maintaining the CMBA Business plan, RM plan and Communications plan

Policy

- Advertising
- Access to scheduled herbs
- Adverse events reporting

Standard consultation process



Reviews: what's happening?

Guidelines for safe Chinese herbal medicine practice

- Became fully effective on 12 November 2017
- Applies to all who prescribe including acupuncturists

Impending consultations: routine reviews of Standards

- Continuing professional development
- Professional indemnity insurance arrangements
- Recency of practice

In the pipeline for routine reviews:

- Code of conduct
- Guidelines for advertising regulated health services
- Infection prevention and control guidelines for acupuncture practice

Advertising obligations

Section 133 of the National Law: *must not advertise in a way that –*

- a) is **false, misleading or deceptive** or is likely to be deceptive; or
- b) **offers a gift, discount or other inducement** to attract a person to use the service or the business, unless the advertisement also states the terms and conditions of the offer; or
- c) **uses testimonials** or purported testimonials about the service or business; or
- d) **creates an unreasonable expectation** of beneficial treatment;
- e) directly or indirectly **encourages the indiscriminate or unnecessary use** of regulated health services

Misleading and deceptive advertising

- Health claims in advertising (as opposed to a professional patient consultation) may be easily misinterpreted or taken out of context, and therefore become misleading.
- Therefore claims in advertising must be supported by **acceptable evidence**

Board's position statement about advertising

- The Board has received complaints about advertising by a significant number of practitioners
- Position statement clarifies obligations when advertising
- Chinese medicine practitioners should not include any therapeutic claims about the treatment of health conditions in their advertising that cannot be substantiated with acceptable and up-to-date evidence

Common issues arising in complaints

- Therapeutic claims (clinical indications) not supported by acceptable and up to date evidence
 - Claims based on traditional use evidence
 - Claims based on out of date evidence, including statement previously published by the WHO
- Words to be wary about – ‘safe and effective’
- Use of testimonials about clinical care
- Inappropriate use of the word ‘specialist’ in advertising

Advertising

Remember also other relevant legislation:

- laws regulating the advertising of therapeutic goods (TGA)
- consumer protection legislation
- State and territory fair trading laws

Access to scheduled herbs

A mechanism for endorsing practitioners exists in the National Law, **BUT** will require:

- profession-wide consensus on strategy
- a detailed case to be accepted and approved by Ministerial Council
- the SUSMP to be amended and then adopted by each state and territory
- approved training for candidates for endorsement
- CMBA procedures to endorse suitable practitioners
- supply controls in place by herbal suppliers
- mechanisms for monitoring

Other news and activities

Reporting adverse events:

- provides important knowledge for public safety
- obligation to report under the Code and herbal practice guidelines
- TGA maintains a national database for medicines and devices
- CMBA will be providing more guidance

Chinese Medicine Reference Group:

- first met in February 2017, next met in August 2017

Concluding remarks

We have provided a handout on issues of known interest such as:

- **protected titles and the word ‘acupuncture’**
- **dry needling**
- **use of the word ‘specialist’**

Patient safety lies at the heart of our system

Evidence-based practice is a community expectation

Maintaining standards and ensuring we have a safe, competent and patient-centered health workforce is a vital part of our work as a regulator

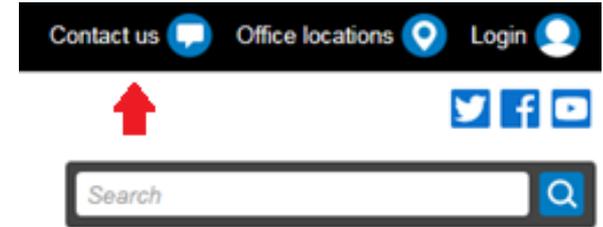
More information

- www.chinesemedicineboard.gov.au
- FAQ: information for the profession

Contact us:

- Call 1300 419 495
- www.ahpra.gov.au/enquiry
- Post:

Chinese Medicine Board of Australia
Executive Officer: Ms Debra Gillick
AHPRA
GPO Box 9958
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Thank you for your interest

Questions and discussion are now invited

- We value your feedback by filling out the questionnaire
- Please stay to have some supper and network with Board members, Deb and Kimberly.