Federation of Chinese Medicine & Acupuncture Societies of Australia Ltd.
澳洲全國中醫藥針灸學會聯合會 (National Body)

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Committee Secretary

Health, Communities, Disability Services, and Domestic and Violence Prevention Committee

Parliament House

George Street

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Dear Officer

Ref: Submission to: Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017

The Federation of Chinese Medicine & Acupuncture Societies of Australia Ltd. (FCMA) appreciates the opportunity to provide this submission to *the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017* (the Bill). The FCMA is an incorporated national Chinese medicine professional organisation with affiliated associations in Victoria, New South Wales, Queensland, the Australian Capital Territory, South Australia and Western Australia. We provide our recommendations and followed with supporting rationale of the amendments of related laws or regulations.

Recommendation 1:

On Division 10 Title and practice protections, Subdivision 2 Practice protections of the *Health Practitioner Regulation National Law Act 2009*. **Add** "Restriction on skin penetration procedure (acupuncture or dry needling) for therapeutic purpose. A person must not perform skin penetration procedure (acupuncture or dry needling) unless the person—

(a) is registered in Chinese medicine Board of Australia (CMBA) ; or
(b) is endorsed by Medical Board of Australia (MBA)
(c) If a practitioner or student who performs skin penetration procedure (acupuncture or dry needling) during the course of activities undertaken as part of the program of study; with the stipulation that the acupuncture or dry needling component of the

course is accredited by the CMBA or equivalent accreditation similar to the endorsement by the MBA.

Recommendation 2

Amend the *Private Health Insurance Act 2007* and the *Private Health Insurance (Accreditation) Rules 2011* that all registered Chinese medicine practitioners who are currently registered with the CMBA are eligible for rebate status as providers of acupuncture and Chinese medicine services in all private health funds.

Recommendation 3

Amend *the Health Insurance Act 1973 (as amended)* and allow acupuncturists registered with the CMBA to be eligible for Medicare Item numbers 173, 193, 195, 197 and 199.

Recommendation 4

Amend *the Health Insurance Act 1973 (as amended)* and *the Aged Care Act 1997* that the Chronic Disease Management Plan (CDM) (formerly Enhanced Primary Care) and include registered acupuncturists and registered Chinese herbal medicine practitioners in CDM.

Rationale for Recommendation 1:

Dry needling is currently practiced by a range of therapists from massage therapists to chiropractors. Those who practice dry needling are not required to complete stringent courses in acupuncture. The background of dry needling comes from the practice of using hypodermic needles to inject saline solution or other solutions into tight muscle mass. It was later noticed that using hypodermic needles without adding a solution is just as effective for the purpose. Currently, acupuncture needles are used due to its convenience and its ability to give the same effect. It has been evaluated that it is not an effective form of treatment compared to proper acupuncture. Often, those who had dry needling reported that there was more pain being induced. This practice presents two concerns with the FCMA. One is to do with safety as the procedure requires skin penetration. Practitioners of dry needling are not Chinese medicine acupuncturists neither registered by CMBA nor are they medical acupuncturists endorsed by MBA; and the practice is not being monitored by any national Boards. While one is taught this technique when attending massage therapy courses, for example, the teachers who teach this skill are also not acupuncturists. Two, those who had dry needling performed on them are nearly always misled that they had acupuncture, and this in turn, also becomes a safety issue.

Acupuncture is defined by the *World Health Organization Techniques on Traditional Chinese Medicine in the Western Pacific Region* (2007: 241) as the *"insertion of needles into humans or animals for remedial purposes"*. Since dry needling requires that needles penetrate the skin, it definitely would be considered acupuncture, though the needle manipulation method is different. Skin penetration by needles is recognised by the medical profession as an invasive procedure and there is stringent oversight of the procedure with regard to the qualification/s of the practitioner and safety. For public safety, it does not stand to reason that one who is not registered with the CMBA, or endorsed by the MBA to be allowed to practice dry needling. To allow this practice by physiotherapists, chiropractors, massage

therapist, etc., the Australian Health Practitioner Regulation Agency (AHPRA) is contradicting its mandate of securing safe health care. Currently, all practitioners registered under the 14 National Boards who practices acupuncture are required either to be registered with the CMBA or endorsed by the MBA. There is no convincing reason to allow any other practitioner to practice dry needling. If allowed to, then, that portion of the curriculum would have to be accredited either by the CMBA or a model of endorsement be set up similar to the one by the MBA. We hope that the committee would carefully review this practice.

Rationale for Recommendation 2

1. Chinese medicine is now regulated nationally under the AHPRA, via the CMBA. The CMBA has powers to assess individual practitioners for the purposes of registration.

2. Rule 7 'Treatments by health care providers regulated under State and Territory laws' of The Private Health Insurance (Accreditation) Rules 2011 ('the Rules') states that:

"If a treatment is provided in a State or Territory where a law of that State or Territory prohibits the provision of the treatment without a permission or approval, or registration, to provide a treatment of that kind, the standard for the treatment is that the health care provider providing the treatment must have the permission or approval, or be registered, under that law."

Chinese medicine treatment is covered under Rule 7.

3. The majority of Australian private health funds have been satisfied to apply the Rules and therefore allow their members access to their choice of Chinese medicine practitioner. However, some private health funds do not recognise some Chinese Medicine Practitioners or acupuncturists registered with the CMBA as providers of acupuncture and Chinese herbal medicine services (for the purposes of consultation fee rebates). Instead they have set their own criteria for approval and have recognised members of particular professional associations and not others. In addition, some private health funds only accept recommendations from Vetassess, a private company which assesses the competency of registered Chinese medicine practitioners who have trained overseas. This sets up a second accreditation system which is not recognised by the CMBA. It is a requirement that all practitioners be registered by the CMBA to be able to practice acupuncture. The AHPRA, a government body, is the only authority to accredit regulated health care providers under the National Registration and Accreditation Scheme (NRAS).

4. Private health funds receive government funding. It is the general public who ultimately contribute to this funding of private health funds via taxation. The public who are funding private health funds are being disadvantaged by particular health funds which refuse to recognise registered Chinese medicine practitioners.

Rationale for Recommendation 3

1. Currently there are several Medicare Item numbers associated with acupuncture services: Items 173, 193, 195, 197 and 199. According to the Medicare Benefits Scheme (MBS) Online website,

"Items 193, 195, 197 and 199 may only be performed by a general practitioner, if:

(a) the person maintains accreditation as a medical acupuncturist with the Joint Consultative Committee on Medical Acupuncture (JCCMA); and

(b) the Medicare Australia CEO has received a written notice from the Royal Australian College of General Practitioners (RACGP) stating that the person meets the skills requirements for providing services to which the items apply.

Item 173 does not require a medical practitioner to have accreditation with the JCCMA or written notice to Medicare Australia from the RACGP."

From 1 July 2012 to 30 June 2013, there were 66,097 Item 173 claims nationally. Courses recognised by the JCCMA for the purposes of accreditation are the Graduate Certificate in Medical Acupuncture (Monash University, 4 units of study) and the Australian Medical Acupuncture College's Modular Medical Acupuncture course (approximately 270 hours). Since 1 July 2012, the Chinese medicine profession has been regulated nationally via statutory regulation under the AHPRA. The majority of undergraduate Chinese medicine and/or acupuncture courses approved by the CMBA are four or five year full-time courses.

With Chinese medicine now nationally regulated under the AHPRA, there is no logical reason why acupuncture services provided by a registered acupuncturist should not attract a Medicare rebate as occurs when delivered by a medical practitioner who is endorsed by the MBA.

Rationale for Recommendation 4

The Department of Health and Aging's CDM (formerly 'Enhanced Primary Care (EPC) Program') list of allied health practitioner services includes: Aboriginal Health Worker, Audiologist, Chiropractor, Chiropodist, Diabetes Educator, Dietitian, Exercise Physiologist, Mental Health Worker, Occupational Therapist, Osteopathy, Physiotherapist, Psychologist and Speech Pathologist. The list does not include registered Acupuncturist or Chinese Herbal Medicine Practitioner. There is no logical reason why the CDM program list of allied health services should not include registered Acupuncturists and Chinese Herbal Medicine practitioners.

We hope that the committee would consider our recommendations outlined above.

Yours sincerely,



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