



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)

**FCMA**

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## Newsletter May 2012

### 1. President's message

Dear members,

With the exception of practitioners in Victoria, it is likely that FCMA members from other states will have already logged in their registration application forms by the time this newsletter is sent out. To avoid conflicts of interest, the Australia Health Practitioner Regulation Agency (AHPRA) has sent these applications to the branch offices in different states depending on where the applicant lives. It has come to my attention that recently an applicant received the result of his application from the AHPRA, that he was granted 'conditional registration' on the basis of his English language skill standard. The practitioner is currently appealing this decision from AHPRA. The FCMA will be very interested in the outcome of the appeal.

Since January, the Chinese Medicine Board of Australia (CMBA) has been responsible for publishing the standards for registration with the CMBA. I represented the FCMA in communicating concerns about the English Language Skills Registration Standard to the Federal government, State officials at different levels and Members of Parliament. I expressed our dissatisfaction with the discrimination against applicants applying under the Grand-parenting arrangements on the basis of the English Language requirements. In total, 34 official letters from the FCMA were sent to the following persons: the Speaker and Deputy Speaker, House of Representatives; Federal Minister of Health; Australian Health Workforce Ministerial Council; (AHWMC); The Office of Commonwealth Ombudsman; the Australian Human Rights Commission; the AHPRA; the CMBA; and the Departments of Health for all the states and territories.

On 1st February 2012, I met with the Executive officer of the CMBA, Ms Debra Gillick and Mr Caprackast, the Director of the National Health Practitioner Ombudsman. I explained the FCMA's view regarding the English examination and requested that the registration policy be changed to exempt applicants from the requirement to demonstrate an IELTS level of 6 during the transition period. I then led a delegation of State representatives of the FCMA to meet the Speaker of the Federal Parliament in Canberra at the end of February, and at the early

March I met with the Minister for Health of Victoria; Speaker of the House of Victoria and senior health officers in the Parliament of Victoria to express our concern.

In the CMBA's Registration standard, applicants who complete their Chinese medicine education in the seven named English-speaking countries (where courses are delivered in English) are complying with the English standard automatically. However other applicants in another areas or countries are required to pass an English examination or can only be registered conditionally. A potential scenario is that a practitioner who has good English skills who does not have formal education in Chinese medicine but can demonstrate competency and length of practice could gain registration (no conditions) but a practitioner from a non-English speaking background who does have formal Chinese medicine qualifications may be given conditional registration if they do not achieve the required IELTS score. This positions English language ability over formal qualifications. Furthermore, the CMBA claims that conditional registration is only the starting point: if necessary, depending on the specific situation of the applicant, *"Additional conditions may include but not be limited to specifying the cohort of patients that may be consulted"*.

The Australian government health management authorities advocate basic democratic human rights principles, but the CMBA publishes a standard which flagrantly discriminates against particular citizens. The standard violates the principles of health professional ethics and the principles of natural justice. Most of the FCMA members and I have expressed our strong condemnation of this ruling. After talking to the representatives of the Australian Human Rights Commission by phone on 10 May 2012 I decided to complain formally to the AHPRA and the CMBA on behalf of the FCMA.

The FCMA believes it is reasonable to require that practitioners to have some English language skills to be able to communicate with English-speaking patients. Assessment of English skills can be done the same way as the assessment for competence, e.g. submitting evidence of length of practice and/or a statement from an employer. It should be born in mind that the majority of practitioners applying under the grand-parenting arrangements are likely to have been practising Chinese medicine in Australia for a reasonable length of time. As long as they have basic English listening and speaking skills, they can communicate with patients in English effectively. The standard of achieving an Academic IELTS level of 6 in all four components in one sitting is overly stringent and harsh.

Our series of protest activities has gained substantial support from the Chinese community and mainstream society. The following excerpt from a statement from the Shadow Minister of Higher Education and Skills of Victoria, the Honorable Mr Steve Herbert, in the Victorian Parliament on 17th April 2012 is evidence that the FCMA's concerns are being taken very seriously. This is very important since members of Parliament represent the public.

His statement said: *"This achievement(inclusion of Chinese medicine in the National Registration and Accreditation Scheme[NRAS]) has not just come from government; it has been welcomed by peak groups such as the Federation of Chinese Medicine and Acupuncture*

*Societies of Australia. Its national president, Professor Tzi Chiang Lin, who is well known to a number of members in this place, has long been active in advocating for proper national registration of his industry as a means of improving the status of Chinese medicine within the Australian health industry. ....*

*There is one issue right now that is at the forefront of the minds of many Chinese medical practitioners, and that is the grandparenting clause in the new system, whereby practitioners who may have practised in their profession, spoken English, run successful businesses and given successful treatment for decades are required, if they have been practising for more than five years, to undertake an English proficiency test to continue plying their trade. It seems to me that this is a requirement you would not see in other professions. It is unusual that people who are experts, who are registered and qualified and who have been doing an exemplary job should be made to jump that hurdle. I am sure that if he were here, the Minister for Multicultural Affairs and Citizenship, the member for Bulleen, would agree that in a multicultural state like Victoria with its long history of Chinese participation across our society such a requirement could seem insulting to many of the long-established, highly expert people who operate in Victoria in Chinese medicine.”<sup>1</sup>*

In its Communiqué the CMBA complains that professions misunderstand the standard, however they put it differently in the Frequently Asked Questions (FAQ's): *“Conditions as needed or desirable to ensure effective communication”* in order to appease the practitioners. In reality, they oblige applicants who cannot provide evidence of meeting the English language criteria (IELTS) to be conditionally registered in the actual registration application process. Even another Chinese Medicine association, with headquarters based in QLD, voiced their opposition to the English language standard when it was announced. As the Shadow Minister said very clearly, the standard is insulting. The CMBA must accept responsibility for the negative impact on the Chinese medicine profession caused by this discriminatory standard. The idea that without English the public can't be protected or that only conditional registration can protect the public is not reasonable. The Aboriginal and Torres Strait Islander Health Practice Board of Australia have not stipulated any such English language requirement.

It is worth noticing that in Victoria the Chinese medicine profession has been regulated via statutory regulation for more than 10 years. Until now, as set out in a previous newsletter circulated by the Chinese Medicine Registration Board of Victoria (CMRBV), we know that by signing the 'undertaking' on the registration application form, a practitioner is declaring that they will comply with the CMRBV guidelines. Now each of the undertakings will be automatically transferred to NRAS. The CMBA needs to consider and notes the original intent of the declaration. Under the current situation, if one third of the Chinese medicine practitioners are signing the undertaking but new registered practitioners are granted conditional registration, what will the Australian public think of our profession? This is inconsistent at best.

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<sup>1</sup> Page 1625, Hansard / Assembly , Health Professions Registration (Repeal) Bill 2012 Tuesday, 17 April 2012

For all members: if you think you are treated unfairly in future, you should learn from the other Australian residents, don't take insults and humiliation quietly. We should stand strong, unite as one, and fight for a "fair go" together. I believe very strongly in the democratic and free country that Australia is, freedom and fairness will prevail.

Best regards

Professor Tzi Chiang Lin, PhD  
National President, FCMA  
23rd may 2012

## **2. Precautions after registration**

The Secretariat of FCMA wishes to remind members: after 1st July 2012, we will be subject to the regulatory law of the Health Practitioners Regulation National Law Act 2009 (in the following called "National law"). So be sure to pay proper attention to the following aspects:

- 1) Strictly follow the Guidelines announced by the CMBA. The guidelines which have been released include "Guidelines for advertising of regulated health services" "Code of conduct for registered health practitioners" and "Guidelines for mandatory notifications". In business advertisements you are not allowed to promote your business by using patient's testimonies or case reports etc. Correctly handle the relationship between practitioners and patients. Never transgressing professional boundaries; complete patients history and treatment records and keep records (the FCMA has developed a standardised patient record and informed consent, forwarded to the members in the past).
- 2) You are not allowed to use any specialist title such as "Gynaecologists" Paediatricians" or "orthopaedic surgeons." etc, even if you previously in other countries have used such a qualification or you migrated under the skilled immigration scheme as a specialist physician. Unless you have been registered as a specialist in Australia you can't use these titles. Please translate "中医师" correctly: Chinese medicine practitioner, not Chinese medical practitioner: Because Medical practitioner means Western doctor in the National law. When you use title of "Dr", you must specify Chinese Medicine or PhD or MD (if you have a PhD or professional doctorate degree).
- 3) You are not allowed do the cervical manipulation to your patients.
- 4) All of the registered Chinese medicine practitioners must complete a minimum 20 hours of Continuous Professional Development (CPD) per year, including at least 4 hours relating to professional issues (i.e., professional ethics and other aspects.) Practitioners who hold a scheduled herbs endorsement must complete at least 2 hours of CPD per year relating to that

endorsement. At least 14 hours per year must include formal learning activities such as the FCMA's various academic activities. The FCMA changed the 2012 CPD record in accordance to the CMBA new guidelines; please fill in the form in accordance with the new one. Living in remote areas or lack of time to attend the CPD activities is no excuse and will be deemed not to have completed the professional education for that year.

5) You cannot use any scheduled medicines like ephedra, aconite, etc. without the endorsement of the CMBA.

6) You must have your Professional Indemnity Insurance (PII) in place for professional indemnity claims for the insured amount \$5,000,000.00 which has an automatic additional coverage and retrospective clause, to prepare AHPRA random audit. (The FCMA has contacted the insurance company who changed the insurance in accordance with CMBA. Please login [www.fcma.org.au](http://www.fcma.org.au) to view or go to the Insurance House website and contact them).

7) Before the 30th November every year, you must complete the renewal of registration process. Members, who have already registered in CMRBV in Victoria, must finish the first renewal of registration before June 22nd of this year. And finish the second (national) renewal of registration process before 30 November 2012. If you don't complete the renewal process within thirty days, your original registration will be cancelled, and you must follow the new national standard to apply for registration. This will be a problematic, hopefully everybody will pay attention.

8) Maintain a high degree of professionalism and ethics. We should respect all members of the CMBA and resolve differences under the framework of the law. Fully respect the patient's rights, including autonomy, informed consent, privacy and the right to equal treatment. Although some of us may suffer in the application process for registration from some form of unfair treatment, we still encourage members to treat patients equally.

9) Refuse to issue false certificates for sick leave and false receipts. For each charged fee, cost of treatment or costs of medicines you must truthfully issue receipts, and in accordance with the Australian Taxation Office (ATO) you are required to retain records for five years. (The Secretariat of FCMA has printed a large number receipt books to meet the requirements, which the members can use and purchase at cost price. The FCMA also made examples of the sick leave notices which meet the legal requirements for your reference).

10) Every year, all members must renew the professional indemnity insurance (PII) and complete the training courses in first aid one month before the expiry date (although the CMBA has no specific requirements with regards to first aid training, all private health funds at the moment still require this training. This requirement may be abolished if the health funds change their policy after Chinese medicine profession is included in NRAS. Send the updated copy of the First aid Certificate and the professional indemnity insurance to the Secretariat of the FCMA in month before expiry. This will have an effect on the patients getting their refunds in time. If you do not inform the Secretariat about the expiry of your certificate you will be

responsible for the consequences. The FCMA will charge a fee for restoring rebate qualifications.

11) If you change your address, add a new business address, change your email address, postal address or phone number, please inform the Secretariat in time, because this information is connected to health funds. It will affect refunds of the consultation and treatment expenses to your patients.

12) After registration, the public will have higher expectations for the registered practitioners. We should continuously improve our professional standard. If we maintain and improve a high level of professional quality, we have an excellent position to negotiating with the federal government; strive for rebate from Veterans affairs and Medicare system.

13) If members have any comments or suggestions to do something for the FCMA, please feel free to contact us any time. If a person is treated unfairly in any way, please contact the FCMA. The FCMA will try it's best to help everybody to solve the problems. The FCMA is one big family.

Compiled by the Secretariat of FCMA  
24<sup>th</sup> May 2012