

Guest Editorial

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Looking Back to Look Forward: Lessons from Chinese Medicine Registration in Victoria

Introduction

Australian health ministers agreed on 9 May 2009 to incorporate Chinese medicine (CM) practitioners into the national registration scheme from July 2012. As Victoria has been the only jurisdiction to register CM, it is useful to reflect on the issues faced by the Victorian Chinese Medicine Registration Board (CMRB, 'the Board') since its inception 9 years ago, in order to consider what lessons might be offered as the profession begins to plan for national registration. Equally, consideration of the past and present developments in the Australian health system may offer some pointers to the upcoming challenges and opportunities for the Chinese medicine profession.

What has the CMRB done?

The most basic part of the Board's 'core business' is to assess and register practitioners, through 'grandparenting', approving courses, and conducting exams. To this end, the CMRB processed and assessed more than 1600 registration applicants (and refused 170 of them) since its commencement, approved 20 courses (in 5 institutions), and conducted around 50 examinations.

The regulatory role of the Board requires that all complaints (now called notifications) be investigated. Since the Board's establishment, 139 investigations have been undertaken, representing a higher number than such boards as chiropractic and osteopathy, but lower than medicine, nursing and psychology. Many complaints arise because of miscommunication between practitioner and patient, or because practitioners have not fully understood the expected standard of professional ethics. The Board has endeavoured to resolve problems through a variety of means, such as warning letters and mentoring. Nonetheless, there have been

16 formal hearings and 4 referrals to the Victorian Civil and Administrative Tribunal (VCAT), plus 16 informal hearings and professional standards panel hearings.

The Board has taken its duty of protection of public health and safety seriously, including where individuals are holding out as qualified practitioners. There have thus been 24 successful prosecutions.

Ideally, however, the Board should be supporting good professional practice, as well as setting basic standards. To this end, the Board has issued 20 guidelines for professional practice and 19 related to legislation processes.

Of course, there can never be too much communication – with the practitioners, the government, other registration boards, and other stakeholders. CMRB maintains a highly informative website, produces annual reports that try to document the work fully, and issues regular newsletters whose bilingual content has grown significantly over time. In addition to specific consultations on guidelines, the Board established a reference group with practitioners and consumers, an initiative that became a model for the new Victorian Health Practitioner Registration Act 2007. Regular meetings with presidents, registrars, and legal members of other Boards were most helpful in learning from their experiences, establishing cooperative working relations, and ultimately having trust placed with CMRB to endorse other registered practitioners who wished to use the acupuncture title.

Some board presidents have remarked that the CMRB within a very short time has had to work on all the issues, that other boards have had some of these issues, and they have had them spread over a longer time span.

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It can be expected that these tasks and obligations will be mirrored at the national level. It must be remembered, too, that the establishment of underlying policies and systems (including governance arrangements) are pre-requisites to smooth implementation of the statutory responsibilities. A national system will be even more complex.

The biggest challenges for the Board

Over the past nine years, the Board has faced any number of difficult decisions, about individual cases as well as about policy. Many of these will resurface for the national registration board when it comes into existence.

The first big challenge was in setting the grandparenting standards. In particular, how to strike the right balance between people's right to livelihoods, the need to have an extended regulatory net to capture those whose skills might be questionable, and the ideal standards that the profession wished to achieve.

Equally difficult were the questions about how to set examinations, and whether overseas courses should be approved. In the ideal world, there would have been mutual recognition with registration boards in other Australian states, if not international mutual recognition. The reality was that CMRB was on its own.

The two longest standing policy development projects related to infection control guidelines and preparing the Board's submission for scheduling of herbs. The former was held up by delays within the Victorian Department of Human Services, whose cooperation was important to ensure the guidelines were seen to be relevant to all acupuncturists, whether registered by CMRB or endorsed by other boards. The latter was a much more complex exercise in pulling together the scientific material, and in a form that would satisfy both federal and state governments.

The three issues that the Board found most troublesome were:

- (1) What to do about yet one more advertising complaint. Despite guidelines, newsletter articles, hearings, and prosecutions, the message just doesn't seem to get through that use of testimonials is not an acceptable practice in the Australian health care system.
- (2) Yet one more explanation needed about the Board's role regarding health funds. This applies both to practitioners and to health funds, where practitioners had difficulty understanding that access to health funds was a matter for

professional associations, not the registration authority. Conversely, health funds often failed to comprehend that the CMRB was not a professional association, and that its role was comparable to any other registration board.

- (3) When one more practitioner refers to him or herself as a member of the board, thus illustrating continued confusion between what is a professional association vs what is the registration board.

A continuing challenge for the Board is developing effective communication with the profession. Despite various communication channels, and increasing effort at translations, there remain underlying difficulties for overseas trained practitioners coming to terms with the Board as a regulatory authority and the Australian regulatory regime.

Some of these challenges may surface with national registration, but at least there are some experiences in Victoria to draw from.

What contributes to Board effectiveness?

Within Victoria, the CMRB has a good reputation amongst boards for its approach to decision-making and its operational systems.

A good administrative system is the bottom line for delivering the core business. Having good governance policies (ranging from managing conflict of interest to media representation) is essential to instilling a culture of deliberative decision-making.

Some of the notable moments that capture the ethos of the CMRB include:

- At the first strategic planning day, practitioner members recalled the first term of the Board being the first time in their professional involvement where they could agree to disagree while respecting differences, and then finding ways forward.
- Vigilant and reflective decision-making was seen multiple times when Board members sought to consider systematically whether decision-making criteria had been consistently and fairly applied, whether for grandparenting or consideration of financial hardship.
- Focus on the legislative objectives and the role of the Board has been unwavering, with Board members, from time to time, reminding each other that the principle task for the Board is to protect public health and safety.

- Whenever a new issue arises and no policy has been established, the Board consistently strives for clarity about the policy issue first. Only when the policy framework has been agreed, and tested against hypothetical scenarios, does the Board return to the issue at hand and then apply the policy framework to the individual instance.
- The Board aims for team work and complementarities of skills in constituting committees, working groups and hearing panels, so as to draw on each others' strengths and perspectives.
- When a complaint arrives about the Board's own work, it is taken as a matter for reflection and learning. While there are often two sides to every story, a defensive attitude in the first instance seldom contributes to problem solving.

Beyond internal operations of the Board, maintaining good relations with other boards and the government has also been most helpful in the Board's ability to discharge its statutory obligations well. That the Board is seen in a good light by others also reflects well on the professionalism of Chinese medicine practitioners.

Issues still requiring attention at the national level

There will be many tasks confronting a new national board. At the organisational level, consideration will have to be given to whether separate state structures will be necessary and affordable; and if not, then how best to put into place consultative mechanisms. The most important policy issues will relate to national standards for registration – for grandparenting, course approvals, examinations and post-graduate specialties. With practitioners currently registered (which includes Victorian practitioners as well as some interstate practitioners at present) moving automatically across to national registration, the alignment between Victorian standards and any new or different national approaches will require careful deliberation. In the longer run, the question of international mutual recognition will also need to be placed on the policy agenda.

Beyond the administrative and policy developments, there are broader issues that will require attention. The CMRB has been keenly aware that overseas-trained members of the Chinese medicine profession have to make adjustments not only to the language of clinical consultation and practising in a different healthcare system context, but also to develop a deep understanding of Australian community expectations in relation to complementary healthcare. Miscommunication and misunderstanding are often at the heart of complaints,

and these are cultural issues as much as they are linguistic problems.

At the same time, there remain misunderstandings within the Australian community and the Australian health system in relation to the role and value of Chinese medicine practice. Some have doubts about the evidence base for Chinese medicine, while others are concerned about the over-promotion of the efficacy of Chinese medicine treatments. The frequency of acupuncture treatment regimes and the dispensing of herbal medicines by Chinese medicine practitioners can be misinterpreted as over-servicing or a commercial practice. So there is a need to both promote a greater community understanding of Chinese medicine practice as well as to ensure ethical practice amongst practitioners.

To address these broader challenges will require a collaborative and cohesive approach across professional associations, educational institutions, and the registration board. With the requirement in the national registration system for compulsory continuing professional development (CPD), an ongoing partnership will need to be institutionalised quickly as well. Fundamentally, the registration board should be interested in quality improvement and minimisation of disciplinary action.

Additional interfaces that need to be worked on at national level

Registration is, of course, not just an activity of and for the profession. It is a regulatory responsibility delegated by government to a range of health professions. As such, there are a myriad of interfaces with the health system and with other areas of health policy that will require attention by a national board.

The most critical areas of interface will relate to:

- endorsement to practise acupuncture by other health practitioner registration boards to ensure comparability in the standards of practice within the Australian health system
- practitioner registration and product regulation by the Therapeutic Goods Administration (TGA) in relation to scheduling of herbs, but also with other authorities in terms of use of endangered species, quality of herbal supplies, monitoring of adverse events, etc
- the different state systems for complaints management and disciplinary procedures to ensure appropriate legal processes are in place as well as equitable processes for complainants and practitioners alike.

The CMRB experiences at the state level will have relevance for how to manage these interfaces at the national level.

Opportunities for engagement with the broader health system

Since the advent of the Rudd government, the pace of health reforms has quickened. These represent opportunities and challenges for the profession as a whole, with the need to follow a range of policy developments and to monitor the timing for engagement and input.

National registration has been one aspect of the national health workforce reforms. There are other dimensions that will have implications for the profession. Issues to watch include the proposal to develop generic competencies for health professionals, multidisciplinary teams, and workforce substitution (including prescribing rights).

The National Healthcare and Hospital Reform Commission (NHHRC), the Preventative Health Taskforce (PHT), and the National Primary Health Care Strategy will all report in mid-2009. The NHHRC has proposed four foci for reform: taking responsibility, connecting care, facing inequities and driving quality performance. These principles all have relevance for the Chinese medicine profession. For instance, the profession has a great deal to contribute in relation to supporting consumers taking greater responsibility for their health and well-being and for improved care coordination for chronic conditions. The profession within Victoria has also demonstrated its commitment to supporting disadvantaged communities, offering services to victims of the 2009 bushfires, to clients in alcohol and drug services, and in low-income communities. The question about quality performance might put a focus within the profession about what mechanisms exist to assure and improve quality and outcomes in professional practice.

The profession can equally consider how it might contribute to prevention in relation to the PHT's focus on obesity, tobacco, and alcohol. It is expected that National Men's Health and Women's Health Strategies will also be released in 2009, and no doubt there will be specific areas of clinical practice where the Chinese medicine profession can make a significant contribution.

Given Chinese medicine practitioners are used by many for primary care, either as a first point of contact, or in conjunction with a general practitioner (GP), the National Primary Health Care Strategy might be of particular importance, to see how the Chinese medicine profession should take its rightful place in the Australian healthcare system.

Conclusion: Some lessons from Victoria

Planning for national registration is expected to begin formally a year in advance from the date of the national system's commencement (1 July 2012). The key lessons from the CMRB since its establishment, that could be offered early on to a national board are:

- Stay focused. Stick to the knitting. Registration is about protecting public health and safety.
- Adopt good governance principles and practices. Good decision-making processes engender trust, which is a critical foundation for any group.
- Be meticulous about administrative decision-making. The Board is accountable for carrying out its statutory responsibilities.
- Appreciate diversity. Within the framework of protecting public health and safety, there is scope for different styles and emphases in professional education and practice.
- Reach out and communicate broadly with all stakeholders. The array of stakeholders is broad, and it is important to keep in mind the interests and needs of each group.
- Remember it should be win-win for both the community and the profession. It is in the interest of everyone to ensure inappropriate conduct and unethical practices are weeded out.
- Take a rightful place in the mainstream. Chinese medicine is appreciated by the Australian community, and it can engage successfully with the health system and health policy at large.