Senate Community Affairs

References Committee

Re: Inquiry into the Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

Introduction

The Australian Acupuncture and Chinese Medicine Association (AACMA) is the peak professional association representing the majority of registered Chinese medicine practitioners in Australia.

We have been representing our members and advocating for the Chinese medicine profession since 1973.

Terms of Reference

The following submission that we are pleased to provide addresses the following points-

ToR- (a) The current standards for registration of health practitioners by the Australian Health Practitioner Regulation Agency (AHPRA) and the National Boards under the Health Practitioner Regulation National Law (National Law)

Key Points

- **Current standards for registering practitioners are fit for purpose**
- **Current law does not effectively protect the public due to loopholes being used by health practitioners.**
- **The proliferation of dry needling and acupuncture by non-registered and registered health professions who are not qualified acupuncturists puts the public at risk Research shows that competent training in health care reduces risk of adverse events within the scope of acupuncture.**
- **Acupuncture is being performed by non-registered practitioners under multiple names, and the lack of standardisation or regulation and even decreasing training again, risks public safety**

(a) The current registration standards for Chinese medicine are appropriate, fit for purpose and the regular reviews when needed, help to maintain currency.

These standards are a minimum 4year bachelor degree or equivalent, including at least a minimum of 650 hours and up to 1000 hours of clinical practice delivered by educational institutions recognised and approved by the Chinese Medicine Board of Australia (CMBA) and the Tertiary Education Quality and Standards Agency (TEQSA): Australia's independent national quality assurance and regulatory agency for higher education. This is the minimum standard of training mandated for registration as an Acupuncturist by the CMBA.

This registration information is vitally important to highlight the anomaly that exists in the Health Practitioner Regulation National Law Act (The National Law) 2009. The National Law recognises "Acupuncturist" as a protected title but unfortunately not acupuncture, which is what acupuncturists do. Since its enactment in 2009, The National Law was designed to protect the public with the national registration of health professionals commencing with the initial phase of registration of health professionals in 2010 and followed with subsequent phases in 2012 and 2018.

The 15 Professional Boards overseeing the now 16 health professions, set the standards of training and qualifications together with the Codes and Guidelines of practice under which all registered health practitioners must practise. The guideline that applies in this instance comes under the "endorsement" to practice a particular technique or treatment that is NOT common to that profession's scope of practice.

Acupuncture is NOT within the scope of practice of any of the other registered health professions yet many of these practitioners can and do provide acupuncture treatments also known as dry needling, with substandard training, sometimes as little as a 20 hour online course - 12 hours online theory and 8 hours face to face practice or over a weekend.

The Medical Board of Australia is the only Professional Board that has an acupuncture endorsement for their members to practise acupuncture. It is a 260hour course delivered by The Australian Medical Acupuncture College, the Board recognised and approved provider. It is worthwhile to note that this course is not recognised by the Chinese Medicine Board of Australia.

The question to be asked here is why does another health modality have the ability to endorse a practice that is not within their scope, especially as it is not offered as part of their undergraduate training.

NO other professional Board endorses a suitable course, other than the CMBA approved courses, for their practitioners but as long as these practitioners DO NOT claim the protected title of Acupuncturist, they are allowed to perform acupuncture. These Boards DO NOT endorse or enforce any training in acupuncture for their practitioners, thus not safeguarding the public who may attend for a treatment with a practitioner who is registered only in their modality but still delivers acupuncture.

So, despite its mandate to protect the public, The National Law, designating "Acupuncturist" as a protected title but NOT "protecting" or "restricting" the actual practise that is acupuncture or dry needling, opens the public to risk of harm from unskilled or inferiorly trained providers. The inherent risk in skin penetration techniques was one of the reasons to register Chinese medicine Acupuncturists. It is not the title Acupuncturist, but what they do- the actual training, skill, knowledge, experience and expertise learned during, not just the initial the 4years of study and clinical practise, but also gained through their whole career and ongoing study that offers protection to the public.

As it currently stands, anyone can treat the public with acupuncture, also referred to as dry needling, with very little quality training but as long as you don't claim to be an acupuncturist you are practising with in The National Law.

The Physiotherapy Board of Australia does not endorse its practitioners in acupuncture yet allow the Australian Society of Acupuncture Physiotherapists (ASAP) to not only continue to practise acupuncture but also provide training in acupuncture that they themselves claim to be insufficient for registration. This is enabled by the loophole in the National Law which only has protection of title – Acupuncturist, but no restriction of practise of acupuncture.

From the ASAP website:

"With the establishment of the Chinese Medicine Board in July 2012 and the scope to apply for endorsement for Acupuncturist titling through the Physiotherapy Board, the acupuncture training landscape for physiotherapists and other allied health practitioners shifted. The ASAP continues to be involved in training therapists to support their career pathway ***but these courses are still insufficient for credentialing through either Board.*** *Unfortunately the Australia Physiotherapy Association does not provide a vertical training pathway in acupuncture and so this prevents even a pathway to Titled membership of the Acupuncture and Dry Needling group and certainly not Specialisation. This policy, unfortunately has really hindered our chances of the Physiotherapy Board providing titling in Acupuncture for therapist with sufficient training. This makes the role of the ASAP even more important in fostering progressive tiered acupuncture training opportunities. Members of ASAP will continue to collaborate with the APA to support acupuncture education."*
https://acupuncturephysio.org/about/
The USA Medicare Scheme has approved up to 20 acupuncture treatments in a year for low back pain but only from practitioners who have a high standard of training and qualifications.

"You must get acupuncture from a doctor, or by another health care provider (like a nurse practitioner or physician assistant) who ***has both*** *of these:*

- ***A masters or doctoral level degree in acupuncture or Oriental Medicine from a school accredited by the Accreditation Commission on Acupuncture and Oriental Medicine***
- ***A current, full, active, and unrestricted license to practice acupuncture in the state where care is being provided"***

https://www.medicare.gov/coverage/acupuncture

Why and how does the Australian health consumer deserve less?

The following studies show the need for high quality training to protect the public from adverse events which result from poor needling techniques due to insufficient training, lack of appropriate infection control and needle safety.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5469776/
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6917269/
https://pubmed.ncbi.nlm.nih.gov/21124716/
https://pubmed.ncbi.nlm.nih.gov/22967282/

AACMA's solution to this issue that puts the public at risk is, under the Health Practitioner Regulation National Law, to designate - Acupuncture also known as dry needling, a restricted practise to be delivered only by practitioners registered as acupuncturists by the Chinese Medicine Board of Australia.

ToR- (c) the adequacy and suitability of arrangements for health practitioners subject to supervised practice as part of the registration process or due to a notification

Key Points

- **Cost and location make serving a level one suspension even more difficult for rural and remote practitioners**

(c) AACMA recognises that public protection, professional and ethical conduct and safe practise are the foundations of best practice for the provision of health care.

Supervised practice is a necessary component in the registration process for some practitioners and also for practitioners due to a notification.

Feedback from all practitioners especially rural and remote practitioners who are on a level one supervision order have found it difficult and cost prohibitive due to their location to be able to comply with the level of supervision necessary under Level 1.

A proposed solution to this can be the use of technology employed in "telehealth" consultations. Gaining popularity with practitioners and the public alike through quarantining, self isolation and social distancing that has had to occur through the worst of the COVID-19 pandemic and lockdowns, a supervisor or supervisee would be able to 'attend' virtual and live via one of the secure, online meeting platforms that are still being utilised worldwide for health consultations, seminars and meetings.

ToR- (e) the role of universities and other education providers in the registration of students undertaking an approved program of study or clinical training in a health profession

Key Points

- **The current system for educating registered health professionals is adequate for purpose**
- **Some disadvantage for rural and remote students who must relocate to cities/major centres study**
- **Less educational opportunities to study Chinese medicine as universities are ceasing to deliver Chinese medicine courses**
- **Mandatory 4 year Chinese medicine undergraduate degree for registration though only 2year master degree without Chinese medicine as a prerequisite can also gain registration**
- **Vital for public safety and the Chinese medicine profession for a high standard education**
- **NICE guidelines UK recommend acupuncture for the treatment of pain**

(e) The current system for educating registered health professionals with the specific Board approved programs of study that meet accreditation standards being delivered by accredited educational institutions is adequate for purpose though does disadvantage rural and remote students as accredited institutions delivering Chinese medicine courses are based in capital cities and major centres.

The role that universities and education providers have in the registration of Chinese medicine students undertaking approved programs of study though seems to be diminishing.

Universities and education providers are running a business, albeit the business of education, there is still the need to generate an income and as tertiary fees have increased there seems to be a decrease in the number of Chinese medicine students. This is borne out by the teaching out of the Chinese medicine course once offered through the University of Technology Sydney. A robust Chinese medicine course, internationally recognised, with 220 undergraduate students, 15 postgraduate research students, 6,000 patients treated in the student clinic yearly and publishing 25 research papers from 2017-2019.

The question that needs to be asked is why? Finance was the reason given by UTS. This now leaves only 3 universities: 2 in Melbourne and 1 in Sydney and 2 private training institutions approved by the CMBA to provide Chinese medicine education around Australia. One of the universities has resorted to providing a 2 year postgraduate Master degree in Chinese Medicine without the pre-requisite of a Chinese medicine undergraduate degree. As undergraduates have no prior training in or knowledge of Chinese medicine, their studies require 4 years minimum with 650-1000 hours of clinical practice to be registered. Postgraduate students with a qualification in a field that is not Chinese medicine need only do 2 years gaining a Master degree without any prior training in or knowledge of Chinese medicine.

Again, a question to be asked is, is it a financial decision for the University offering the qualification to try to get more students in paying a higher fee for a master degree at the expense of the mandated training to be registered?

Interestingly, some private health funds do not recognise these 2year postgraduate courses as suitable or adequate training for provider status with their fund.

According to the CMBA statistics for 2019-2020, there are 4921 registered practitioners only a 0.6% increase from the previous year. As some of that 0.6% increase of practitioners can be attributed to overseas trained practitioners relocating to Australia, it shows that there are a very, very small number of students graduating from Chinese medicine courses in this country.

Chinese medicine is an ancient and unique medical model truly holistic in its application not only employed to treat the physical, mental and emotional aspects of illness but also can be utilised in the maintenance of good health and wellbeing. Better integration of Chinese medicine into the Australian health care system gives the public a genuine choice for the provision of their health care and maintenance of good health and wellbeing. Studies worldwide have shown acupuncture to be very effective in the treatment of chronic pain of various types, diminishing the need and use of pharmaceutical pain medications which have been implicated in the “opioid crisis” that has seen the over the counter pain medications now requiring a medical prescription.

Health budgets of Governments around the world are under extraordinary strain especially with ageing populations, the need to manage the growing burden of people suffering with chronic pain and the ever-increasing need for mental and emotional support and treatments with the rise in panic and anxiety disorder that has intensified with the COVID-19 pandemic.

Ensuring a well-trained and qualified health workforce is vital, especially one such as Chinese medicine that provides treatments that, anecdotally through patient feedback, relaxes and calms the mind while being cost effective and drug free especially in the management of chronic pain. This course of action ties in well with the objectives of Australia’s National Medicines

Policy providing patient centred outcomes through the provision of safe, effective, quality care that is affordable and accessible.
The National Institute for Health and Care Excellence UK (NICE) Guidelines released on April 7, 2021, recommend the use of acupuncture for the management of Chronic- primary and secondary, pain for over 16 year olds highlighting also for its cost effectiveness.
As acupuncture is being recognised for its benefits in treating pain in particular, the need for acupuncturists as highly trained practitioners is increasing.
https://www.nice.org.uk/guidance/ng193/chapter/Recommendations

Public safety under the National Law demands that practitioners are trained to a very high standard, there is a threat to the viability of the Chinese medicine profession and industry with the proliferation of dry needling and acupuncture delivered by undertrained practitioners and the reduction in CMBA approved Chinese medicine courses.

Suggestions that AACMA offer to remedy this are: the educational facilities to more vigorously promote Chinese medicine at tertiary expositions to school leavers as a health career profession that is viable, fulfilling and increasingly being taken up by the health consumer in Australia, some level of funding support for the universities and educational institutions offering courses such as Chinese medicine so there can be direct fee relief for intending students that will then also bring in business and money for those institutions while providing a qualified health work force.

ToR- (f) access, availability and adequacy of supports available to health practitioners subject to AHPRA notifications or other related professional investigations

Key Points

- **Insufficient or poor communication from Ahpra**
- **Inconsistent information from Ahpra**

(f) Any practitioner receiving a notification is immediately concerned and in some cases panic stricken and fearful.

The most common feedback from practitioners relates to communication with Ahpra staff that seems to add to their anxiety.

Often it may take several calls by practitioners to the relevant department to gain the information needed to respond to the notification. Several calls usually means different staff answering and while it is understood that personal interpretation impacts on the exact meaning of the question hence leading to more questions, the answers are also impactful with practitioners reporting that they have received quite different answers to similar questions from different staff. Already distressed by a notification, the stress levels are then increased due to confusion generated by the different responses received from Ahpra staff.
A random Ahpra audit of practitioner websites recently to monitor compliance with advertising guidelines lead to several practitioners receiving notifications for breaches. The most common complaint on practitioner community forums at that time was the variety of responses to the

same or similar questions practitioners received from Ahpra staff when they called for clarification.

AACMA recommends that Ahpra staff be trained in meaning and intent of the specific Codes and Guidelines so that there is a uniform response to practitioners who have received a notification. This would help to address the lack of consistent information being provided to practitioners.

ToR- (g) the timeliness of AHPRA's investigation of notifications, including any delays in handling, assessment and decision-making, and responsiveness to notifiers

Key points

- **Delays in handling, assessment and decision-making adversely impact on the mental and emotional wellbeing of practitioners**

(g) While it is recognised and imperative that appropriate investigations of a complaint against a health practitioner need to be carried out and take time, many practitioners facing a notification suffer overwhelming stress with accompanying mental and emotional issues, not just from the notification to which they have to respond, but also potentially facing fines that they may not be able to pay, sometimes suspension during the investigation leading to the action of suspension as the disciplinary measure or de-registration, both temporarily or permanently impacting their ability to earn a living or ending their career.

AACMA suggests that the designated member of the notification or investigation team who is the "case worker" for that practitioner/notification, while maintaining a professional level, generates a relationship that can provide a sense of stability for a practitioner who is experiencing a level of suffering and definite trauma through the process. Maintaining "continuity of care" during the investigation process is desirable and helpful, as both parties will know the "case" so repetition of story and answering the same questions to different investigators does not need to keep occurring. This reduces the level of trauma felt when continuously revisiting the information engendering a sense of care for the practitioner with the "case worker" regularly communicating with the practitioner, updating them through on-going investigation
This level of contact and communication through this very stressful time may help to reduce or alleviate practitioner distress. A 2018 study on doctors reported in the British Journal of Psychiatry Bulletin shows the deterioration in the mental health of doctors under investigation leading to significant mental health issues, substance abuse and addictions and in some rare cases, suicide.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6436060/

Thank you for the opportunity to provide information for this important review.
For further information or clarification I can be contacted

Waveny Holland
President AACMA