PARLIAMENT OF NEW SOUTH WALES

Committee on the Health Care Complaints Commission

REPORT INTO TRADITIONAL CHINESE MEDICINE

Report No. 10/53 – November 2005

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Joint Committee on the Health Care Complaints Commission.
Report: Inquiry into Traditional Chinese Medicine/ Parliament of New South Wales, Committee on the Health Care Complaints Commission. [Sydney, N.S.W.] : NSW Parliament, 2005. – 58 p; 30 cm. (Report No. 9/53, November 2005)

Chair: Jeff Hunter.
"November 2005".

ISBN 1 921012 153

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TERMS OF REFERENCE

The Joint Parliamentary Committee on the Health Care Complaints Commission is to inquire into and report on the possible regulation or registration of Traditional Chinese Medicine with particular emphasis on:

- Quality assurance issues concerning regulation or registration including: formal complaint handling and disciplinary procedures; quality and uniformity of training; accreditation; continuing professional education; and grandfathering provisions;

- The feasibility of a National registration system;

- Approaches to Traditional Chinese Medicine regulation and registration in other jurisdictions;

- Any other related matters.

FUNCTIONS OF THE COMMITTEE

The Joint Committee on the Health Care Complaints Commission was appointed in 1993. Its functions under Section 65 of the Health Care Complaints Act 1993 are:

a. to monitor and to review the exercise by the Commission of the Commission's functions under this or any other Act;

b. to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of the Commission's functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;

c. to examine each annual and other report made by the Commission, and presented to Parliament, under this or any other Act and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;

d. to report to both Houses of Parliament any change that the Joint Committee considers desirable to the functions, structures and procedures of the Commission;

e. to inquire into any question in connection with the Joint Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.

The Joint Committee is not authorised:

a. to re-investigate a particular complaint; or

b. to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or

c. to reconsider the findings, recommendations, determinations or other decisions of the Commission, or of any other person, in relation to a particular investigation or complaint.

CHAIRMAN'S FOREWORD

The Committee on the Health Care Complaints Commission has undertaken this inquiry as it relates directly to public safety within the health system.

While the Health Care Complaints Commission has the jurisdiction to receive and deal with complaints about Traditional Chinese Medicine practitioners under its current legislation, without the accompaniment of a registration scheme the public cannot be sufficiently protected from incompetent, negligent or dishonest practitioners.

Only formal registration ensures uniformity of professional standards and effective disciplinary processes. Health care complaint handling and health professional registration go hand in hand.

This is true for all complementary medicine providers who are currently unregistered.

Obviously, some complementary medicine practices are more dangerous than others. The possible dangers of wrongly applied acupuncture and the potential toxicity of Chinese herbal medicine have been well documented and have lead to its registration in many other jurisdictions, including Victoria.

The Committee has had the opportunity to review the registration systems of many of these jurisdictions and, we believe, learn from the obstacles they encountered.

The largest of these obstacles has been without question grand-parenting provisions. The workforce that is affected by registration is usually significant and denying people who have already been practising in the Traditional Chinese Medicine field for many years a livelihood on the basis of unsuitable qualifications is a serious consideration.

Other jurisdictions have tended to take three approaches.

The first approach is to grant full registration to all practitioners who can demonstrate that they have been practising for a certain number of years. The Committee rejected this approach as it does not believe it guarantees patient safety as, in the absence of any existing regulation, it is impossible to assess the competency of the practitioner.

Secondly, practitioners have been required to sit and pass an examination. The Victorian example has shown that examinations are extremely unpopular and may disadvantage practitioners whose first language is not English.

The third option is an assessment process. This involves assessing each practitioner's work record, qualifications etc. The resource intensity of the assessment process, coupled with its inability to always detect fraudulent records and qualifications is problematic.

The Committee have therefore taken the view that grand-parenting should be done by the successful completion of a bridging course which both allows the practitioner to demonstrate a level of competency as well as to upgrade his or her skills in three key areas.

The bridging course can be completed over a five-year period on a part-time basis. Practitioners who have practised for five years full time over the last ten years should be eligible to undertake the course. This length of practice is consistent with the Victorian grandfathering provisions. It would also ensure that all registered practitioners are past the seven years of practise which research has shown is necessary to achieve professional competence.

Until practitioners meet the requirements of registration they should be listed by the Traditional Chinese Medicine Registration Board. Listing will allow them to continue to practice but not call themselves "registered practitioners".

Bridging courses should be offered by the major universities currently teaching Traditional Chinese Medicine. This will allow for independent assessment and examination of practitioners. The Traditional Chinese Medicine Registration Board would also be freed from the arduous assessment process to focus on other areas involving effective regulation and professional competency in its formative years.

The Committee has also recommended that the opportunity to sit an examination be offered for practitioners who do not wish to undertake the bridging course. This examination would be set by the Registration Board.

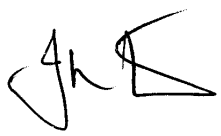
Until the registration process is completed the Committee is of the view that acupuncturists should remain under the jurisdiction of the *Public Health (Skin Penetration) Regulation 2000.* The evidence provided by City of Sydney Council concerning their results of their regular hygiene inspections convinced the Committee that the public would best be protected by leaving acupuncturists under local council jurisdiction until the profession as a whole has been upgraded to higher clinical and professional standards.

It is hoped that this report helps form the basis of any draft legislation, which will be produced in relation to a Traditional Chinese Medicine practitioner registration framework.

The Committee intends to scrutinise and comment on the draft Bill when it is distributed by the Minister for Health.

In light of recent concerns that have been highlighted during the course of this inquiry about other areas of unregistered complementary medicine, the Committee intends to revisit its previous report: *Unregistered Health Practitioners – the adequacy and appropriateness of current mechanisms* in the near future.

I would like to thank everyone who submitted to this report as well as my Parliamentary colleagues for their significant contribution. Lastly, I would like to thank the secretariat for their assistance in the report preparation.



JEFF HUNTER MP
Chairman

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1: That Traditional Chinese Medicine be registered in New South Wales

RECOMMENDATION 2: That registration should be through protection of title

RECOMMENDATION 3: There should be three distinct divisions of the register: acupuncturist, Chinese herbal medicine practitioner and Chinese herbal dispenser

RECOMMENDATION 4: That the Traditional Chinese Medicine registration legislation should be as uniform as possible with the existing twelve New South Wales health registration Acts

RECOMMENDATION 5: That the Traditional Chinese Medicine Board be placed under the administration of the Health Professionals Registration Boards

RECOMMENDATION 6: That professional indemnity insurance be a compulsory registration requirement with the New South Wales Traditional Chinese Medicine Registration Board

RECOMMENDATION 7: That draft legislation be prepared and tabled for public comment

RECOMMENDATION 8: That all members of the New South Wales Traditional Chinese Medicine Board be appointed by the Governor on the recommendation of the Minister for Health

RECOMMENDATION 9: That at least one member of the New South Wales Traditional Chinese Medicine Board be able to communicate in English and either Mandarin and/or Cantonese

RECOMMENDATION 10: That the New South Wales Traditional Chinese Medicine Board consist of one registered doctor, one lawyer, one layperson, one NSW Health representative with the remaining members being Traditional Chinese Medicine practitioners

RECOMMENDATION 11: That doctors who perform acupuncture be allowed to use the title "medical acupuncturist" after meeting the relevant educational and skill requirements of the New South Wales Medical Board

RECOMMENDATION 12: That all health professional boards who endorse their practitioners to perform acupuncture have transparent educational and skill requirements that are developed in consultation with the New South Wales Traditional Chinese Medicine Board

RECOMMENDATION 13: That the Minister for Health require the Traditional Chinese Medicine Board to develop a code of conduct which practitioners must adhere to

RECOMMENDATION 14: That the model for complaint handling and disciplinary processes for Traditional Chinese Medicine practitioners should be co-regulatory involving the Board and the Health Care Complaints Commission in line with all other registered health professionals in New South Wales

RECOMMENDATION 15: That the staff of the Health Care Complaints Commission receive formal training in cultural competency

RECOMMENDATION 16: That the Health Care Complaints Commission employ the services of peer reviewers with qualifications in all three divisions of the Traditional Chinese Medicine register

RECOMMENDATION 17: That the Health Care Complaints Commission ensure that their provision of translating and interpreting services is in line with best practice

RECOMMENDATION 18: That an approved course of study which is a Bachelors degree or equivalent be the requisite criteria to meet registration requirements to practice Traditional Chinese Medicine

RECOMMENDATION 19: That all Traditional Chinese Medicine practitioners be required to list with the New South Wales Traditional Chinese Medicine Registration Board as an initial step in the registration process and that this listing last for an initial period of five years

RECOMMENDATION 20: Listed practitioners who have had five years full time practice experience within the last ten years but do not have the academic qualifications to meet the registration criteria should be eligible for registration after meeting the requirements of an approved bridging course or having passed an examination set by the New South Wales Traditional Chinese Medicine Registration Board

RECOMMENDATION 21: Acupuncturists should remain under the jurisdiction of the *Public Health (Skin Penetration) Regulation 2000* until such time as the New South Wales Traditional Chinese Medicine Registration Board has the ability to conduct clinical inspections

RECOMMENDATION 22: That a certificate from the relevant council verifying that an inspection of an acupuncturist's premises has been conducted and safe hygiene practices are being complied with be a registration requirement for all acupuncturists

RECOMMENDATION 23: That the New South Wales Traditional Chinese Medicine Registration Board be required to pass on details of listed practitioners and their clinics to the relevant council for inclusion on the council's register of premises kept in accordance with the *Public Health (Skin Penetration) Regulation 2000*

RECOMMENDATION 24: That New South Wales Health consider substantially increasing penalties for non compliance with hygiene practices regulated under the *Public Health (Skin Penetration) Regulation 2000* when the regulation is reviewed

RECOMMENDATION 25: That the New South Wales Traditional Chinese Medicine Registration Board appoint a community liaison officer to work with local councils and provide training in Traditional Chinese Medicine practices to assist them with their duties under the *Public Health (Skin Penetration) Regulation 2000*

RECOMMENDATION 26: That the New South Wales Traditional Chinese Medicine Registration Board, where possible, work to achieve consistency of standards across Australia for registration of Traditional Chinese Medicine practitioners

RECOMMENDATION 27: That NSW Health, the Traditional Chines Medicine Board and the Health Care Complaints Commission jointly undertake a bilingual public awareness campaign on the introduction of registration for practitioners of Traditional Chinese Medicine and on the roles of the relevant agencies in handling complaints

RECOMMENDATION 28: That the New South Wales Traditional Chinese Medicine Registration Board receive seed funding from NSW Health in order to establish itself

RECOMMENDATION 29: That the Western medicine component of professional entry-level courses for Traditional Chinese Medicine be increased and that courses include practical experience in Traditional Chinese Medicine within a clinical setting

RECOMMENDATION 30: That all registered Traditional Chinese Medicine Practitioners be required to undertake Continuing Professional Education

RECOMMENDATION 31: That all educational courses which are recognised by the New South Wales Traditional Chinese Medicine Registration Board be approved by the Minister for Health by way of regulation on the advice of the New South Wales Traditional Chinese Medicine Registration Board

RECOMMENDATION 32: That the New South Wales Traditional Chinese Medicine Registration Board establish an education Committee to advise it on suitable educational standards and courses

RECOMMENDATION 33: That the Traditional Chinese Medicine Registration Board promote and co-ordinate research into Traditional Chinese Medicine, in particular the interaction between Western medicine and Chinese herbal medicine

Chapter One - Background

The development of regulation and registration of Practitioners of Traditional Chinese Medicine in Australia has a history that dates back to the mid 1990s. To date Victoria is the only state in Australia to register Practitioners of Traditional Chinese Medicine.

Consultations and Examinations

However, in June 2005 the Western Australian Department of Health released a discussion paper entitled *Regulation of Practitioners of Chinese Medicine in Western Australia* in which the Department canvasses options for registration and says that registration is being considered *given the potential for serious risks arising from the practice of Chinese medicine.*[1]

In November 1996 the most significant study on Traditional Chinese Medicine in Australia entitled *Towards a Safer Choice, The Practice of Traditional Chinese Medicine in Australia* was published. This study was commissioned by: the Victorian Department of Human Services, New South Wales Department of Health, and the Queensland Department of Health. The following topics were addressed: practice, benefits, risks, workforce engaged in practice, analysis of patients, professional associations, education, regulation in Australia and overseas, the Australian context for regulation and assessing the need for occupational regulation.

The Australian Health Ministers' Advisory Council released an assessment of the potential need to regulate Traditional Chinese Medicine in 1996. The Council considered that (according to the six criteria set by Australian Health Ministers' Advisory Council) the benefits of promoting public safety clearly outweigh the potential impacts of occupational regulation.

In assessing the risk posed by Traditional Chinese Medicine the Committee took into account the invasive nature of acupuncture and Chinese herbal medicine compared to other complementary health modalities, such as massage or meditation. The potentially toxic effects of the Chinese herbal medicines were acknowledged.

In July 1998 *Traditional Chinese Medicine, Report on Options for Regulation of Practitioners* was released by the Victorian Ministerial Advisory Committee. The report addressed the findings of *Towards a Safer Choice, The Practice of Traditional Chinese Medicine in Australia,* the results of consultation they had conducted on this report and options for regulation and implementation issues.

The *Chinese Medicine Registration Act 2000* (Vic) was passed by the Victorian Parliament and serves as the enabling legislation for the Chinese Medicine Registration Board which is the relevant body implementing the statutory registration of Practitioners of Traditional Chinese Medicine in Victoria.

[1] June 2005, Department of Health, Western Australia, Regulation of Practitioners of Chinese Medicine in Western Australia, Discussion Paper

In September 2002 the NSW Health released a discussion paper *Regulation of Complementary Health Practitioners,* which looked not only at Traditional Chinese Medicine but also at other complementary health practices including: Naturopathy, Homeopathy, Western Herbal Medicine, Massage, Shiatsu, Reiki and Chelation Therapy.

In the discussion paper there is reference to *the need to ensure safety as well as the provision of minimum standards of practice and an effective complaints handling mechanism.* There is also reference in the discussion paper to the need for regulation, models for regulation and initial registration.

NSW Health received a total of fifty-five submissions on the discussion paper. NSW Health state that the submissions raise concerns over the risk to public health and safety posed by Traditional Chinese Medicine as well as addressing the following issues:

- *The need for appropriate interface between complementary health services and medical services, including the appropriate referral for medical conditions to medical practitioners, particularly GP's, and the provision of information to GP's;*
- *The importance of professional boundaries being based on expertise and, in particular, complementary health practitioners not claiming expertise in medical diagnosis;*
- *The importance of consumers being able to make informed decisions based on the qualifications and standards achieved by practitioners;*
- *Problems raised by a wide range of standards of practitioner training and the large number of professional associations involved.*

NSW Health state in their submission to the Committee that the regulation of practitioners of Traditional Chinese Medicine is an identified priority area.

At the Commonwealth level the Expert Committee on Complementary Medicines in the Health System delivered their report to the Parliamentary Secretary and the Minister for Health and Ageing in September 2003.

The report *Complementary Medicines in the Australian Health System* addressed the following topics: industry size and significance, policy, regulation in Australia, Trans Tasman agency creation, regulatory controls, adverse reactions, information and advertising and administrative and advisory mechanisms.

Recognition in Other Spheres

Although no registration scheme presently exists in New South Wales there are currently two ways in which the profession is recognised. This is through exemption from the Goods and Services Tax by the Australian Taxation Office and the availability of rebates for services provided by some practitioners of Traditional Chinese Medicine by some private health insurance providers.

To qualify for exemption from the Goods and Service Tax acupuncture and herbal medicine service providers are required to be members of a professional association, which has a uniform national registration requirement meaning it has the same conditions for admission in all states and territories.

While no definition is provided by the Australian Taxation Office of what constitutes a professional association the following characteristics of what constitutes a professional association are offered on the Australian Taxation Office website:

- *its members are practising the listed profession;*
- *it sets its own admittance requirements, including acceptable qualifications;*
- *it sets standards of practice and ethical conduct;*
- *it aims to maintain the standing of the profession as a whole and often prescribes requirements to maintain their professional skills and knowledge through continuing professional development;*
- *it has sufficient membership to be considered representative, but not necessarily solely representative, of that listed profession;*
- *it is a non-profit making body;*
- *it has articles of association, by-laws or codes of conduct for its members, and;*
- *it has the ability to impose sanctions on members who break the association's rules.*

Membership will normally entail the following:

- *have access to a range of published materials (for example journals, newsletters or technical updates);*
- *be allowed to take part in making decisions that affect their profession (ie that are designed to promote, encourage and develop the profession);*
- *have the right to vote at meetings of the association, and;*
- *have the right to be recognised as being a member of that professional association.*

Some private health insurance providers offer rebates to customers when they use an approved provider of Traditional Chinese Medicine.

The determination of approval for providers is typically governed by membership of a pre-approved professional association or individual assessment by an external assessor contracted by the private health insurance provider to assess the practitioner against their criteria for approval.

Chapter Two - Overview of Regulation or Registration of Practitioners of Traditional Chinese Medicine in other Jurisdictions

The World Health Organisation

Traditional Chinese Medicine is considered to be a Traditional Medicine by the World Health Organisation. A strategy for Traditional Medicine was developed in 2002 entitled *The Traditional Medicine Strategy 2002-2005:*

> The strategy *...reviews the status of TM/CAM (Traditional Medicine and Complimentary and Alternative Medicine) globally, and outlines WHO's own role and activities in TM/CAM. But more importantly it provides a framework for action for WHO and its partners, aimed at enabling TM/CAM to play a far greater role in reducing excess mortality and morbidity, especially among impoverished populations.*

In addition to the Traditional Medicine Strategy the World Health Organisation developed several guidelines and standards, which relate to both herbal medicine and acupuncture. These documents are grouped under the following subject areas: quality control, assessment of safety and efficacy, medicinal plants, conservation, national policy, primary health, research and training and traditional health practitioners.[2]

Australian Jurisdictions

Victoria

Victoria has pioneered the registration of practitioners of Traditional Chinese Medicine in Australia. As the only Australian model currently in existence, the Committee has closely examined the operations and experiences of the Chinese Medicine Registration Board of Victoria and its enabling legislation the *Chinese Medicine Registration Act 2000.*

Registration began in Victoria in January 2002. The Board's 2003-2004 Annual Report stated that six hundred and eighty five practitioners had been registered. Two hundred and seventy nine of these were registered in the division of acupuncture. Thirty-seven were registered in the division of Chinese herbal medicine practitioners. Three hundred and sixty-nine were registered in both divisions.[3]

Practitioners in Victoria can apply for registration in any one, or a combination of, the following areas: acupuncture; Chinese herbal medicine practice or Chinese herbal medicine dispensing.

In order to become registered applicants must satisfy the following criteria set out in the *Chinese Medicine Registration Act 2000* (Vic) *Part 2, 5*.

[2] World Health Organisation Website www.who.int/medicines/library/trm/acupuncture/acupdocs.shtml
[3] Fourth Annual Report, 2003-2004 Chinese Medicine Registration Board of Victoria

To be considered qualified for registration the applicant:

a) has successfully completed a course of study approved by the Board; or
b) in the opinion of the Board, has a qualification that is substantially equivalent or is based on similar competencies to a course of study approved by the Board; or
c) has passed an examination set by or on behalf of the Board; or
d) has a qualification that is recognised in another State or Territory of the Commonwealth for the purposes of undertaking work of a similar nature to that which a person, holding a qualification to which paragraph (a), (b) or (c) applies is qualified to undertake.

The Act specifies that registration may be denied on the grounds that, in the opinion of the Board, the applicant is: not of good character; is drug or alcohol dependent; has been found guilty of an indictable offence; has a physical or mental incapacity; has had his or her registration cancelled in another State or Territory; does not have adequate professional indemnity insurance; or is not competent in speaking or otherwise communicating in English.

During the first three years after the introduction of the Act a person who did not meet the qualifications set out in Part 5 was able to apply for registration under grand-parenting provisions. One thousand two hundred and fifty four applications were received by the end of the grand-parenting period. Approximate figures provided by the Chinese Medicine Registration Board of Victoria state that one hundred and forty-seven have been refused.

The Chinese Medicine Registration Board of Victoria can receive complaints, can investigate, can conduct formal hearings and can take disciplinary action against practitioners as well as enforcing standards. To date fifty-two complaints have been received, four formal hearings conducted and two more are scheduled to be held.[4]

Other States

The Western Australian Department of Health was told at the time of the release of their Discussion Paper that the Australian Capital Territory, Northern Territory, Queensland, South Australia and Tasmania had *no immediate plans to regulate complementary health practitioners in these states and territories.*[5]

Overseas Jurisdictions

Canada

Health Canada is pursuing a national initiative on Traditional Chinese Medicine. Registration of Traditional Chinese Medicine is the jurisdiction of the provinces.

[4] Submission number 20 from the Chinese Medicine Registration Board of Victoria
[5] June 2005, Department of Health, Western Australia, Regulation of Practitioners of Chinese Medicine in Western Australia, Discussion Paper, page 9

Individual provinces have variations with British Columbia, Alberta and Quebec regulating acupuncturists. Other provinces have guidelines only relating to the practice of acupuncture.[6]

There are restrictions placed on the practice of acupuncture in the various provinces and these include: treatment for serious illnesses like Cancer, use of acupuncture for anaesthesia, practice by a practitioner who does not have competency in English, equipment used during patient examinations and restrictions on long - term treatment without consulting another health professional.[7]

South Africa

On 23 August 2005, the *Chiropractors, Homeopaths and Allied Health Service Professions Amendment Bill 2000* was passed and included the profession of Chinese medicine and acupuncture.[8] The Allied Health Professions Council of South Africa and professional boards were responsible for the protection and promotion of health through the setting of standards and the regulation of registered health professionals.[9] This was seen as a temporary type of registration for a limited time. In order to receive permanent registration practitioners have to upgrade through the Council Registration Examination (CRE).[10]

The Ministry of Health in South Africa have committed to pursuing the development of herbal medicine and the regulation of traditional medicine including the possible use of herbal medicines for treatment of AIDS-related illnesses. This commitment was made during a visit from a health delegation from China.[11]

New Zealand

The Ministerial Advisory Committee on Complementary and Alternative Health was established in June 2001 under Section 11 of the New Zealand *Public Health and Disability Act 2000*. The Committee released a discussion paper entitled *Complementary and Alternative Medicine: Current Policies and Policy Issues in New Zealand and Selected Countries.* Following consultation on the paper the government enacted *The Health Practitioners Competence Assurance Act 2003* (NZ).

The following professions are covered in the Act: chiropractors; dentists; clinical dental technicians; dental therapists; dental hygienists; dieticians; dispensing opticians; medical laboratory scientists and technicians; medical practitioners; medical radiation technologists; midwives; nurses; occupational therapists; optometrists; osteopaths; pharmacists; physiotherapists; podiatrists; and psychologists. However, neither the practice of acupuncture or any other form of Traditional Chinese Medicine was included for registration under the Act.

[6] Legal Status of Traditional Medicine and Complementary/Alternative Medicine: A Worldwide Review, 2001, The World Health Organisation, page 49-50
[7] Legal Status of Traditional Medicine and Complementary/Alternative Medicine: A Worldwide Review, 2001, The World Health Organisation, page 49-50
[8] Government Gazette, Department of Health South Africa Website www.doh.gov.za/docs/notices/2000/not2234.html
[9] Allied Health Professions Council of South Africa Website http://www.ahpcsa.co.za/mission.txt.htm
[10] Professor G Mohamed, 2005, Chinese Medicine – A Synopsis for Use by the Allied Health Professions Council of Namibia, page 2
[11] Department of Health South Africa Website www.doh.gov.za/docs/pr/2002/pr0523.html

United Kingdom

The House of Lords Select Committee on Science and Technology issued a report in 2000 entitled *Complementary and Alternative Medicine*. Three factors influence the view of the Committee as to the suitability of certain practices to regulation by statute.

These factors are:

1. The possible risk to the public from poor practice;

2. A pre-existing robust voluntary regulatory system;

3. The presence of a credible evidence base.[12]

After consideration of all the evidence put before them, the Committee supported the statutory regulation of acupuncture and herbal medicine.

Following on from this, in 2004 the Department of Health in the United Kingdom released a paper containing proposals for statutory regulation entitled *Regulation of Herbal Medicine and Acupuncture*. The paper outlined the background to statutory regulation and listed issues for discussion.

Following a consultation period a report was released in February 2005. It was found that the majority of respondents to the paper were in favour of statutory regulation.

As a result the Health Department favoured the establishment of a shared Complimentary and Alternative Medicine Council, which covered both herbal medicine and acupuncture.

This Council would *...support practitioners who work across professional boundaries, while preserving and respecting individual traditions within the herbal medicine and acupuncture professions*.[13]

It is proposed that if the existing models of statutory regulation were used then protected titles would be a feature of the regulation. The proposed register will be divided into two parts for acupuncturists and for herbal medicine practitioners, with possible admission to both. The Council will determine standards of education and training for admission to practice including accrediting education providers.

Conduct of practitioners will also come under the jurisdiction of the Council as will continuing professional development of registered practitioners and the determination of a practitioners' fitness to practice.

The timetables given in the report offers spring of 2005 as the tentative date for the preparation of a draft order under section 60 of the *Health Act 1999* for the implementation of statutory regulation.

[12] House of Lords - Select Committee on Science and Technology, Sixth Report "Complementary and Alternative Medicine", page 3

[13] Department of Health, March 2004, Regulation of herbal medicine and acupuncture – Proposals for statutory regulation, page 9

United States

The National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) in the United States of America allows practitioners who meet eligibility criteria and pass an examination to gain national certification. Certification with the Commission is a requirement for licensing in most states. Licensing requirements vary from state to state.

Eligibility for certification is via one of the following routes: formal education, apprenticeship or a combination of the two. In addition to applying via one of the previously mentioned entry routes, applicants must also:

- Acknowledge and agree in writing to abide by the NCCAOM Code of Ethics and other NCCAOM policies;
- Have a clear disciplinary record;
- Be physically and mentally able to practice in a safe, competent manner;
- Be free of any alcohol or drug dependency;
- Be at least 18 years of age; and
- Obtain passing score(s) on all required modules/examination for the desired credential.[14]

According to the information provided by the Commission at the time of publication 80% of states had a practice act requirement, while 37% required certification.[15]

States that regulate complementary and alternative medicine practitioners are in keeping with a recommendation of a 2002 report entitled *White House Commission on Complementary and Alternative Medicine Policy Final Report* which recommended that:

> *States should evaluate and review their regulation of CAM practitioners and ensure their accountability to the public. States should, as appropriate, implement provisions for licensure, registration, and exemption consistent with the practitioners' education, training, and scope of practice*[16]

China

The regulation of Chinese Medicine in China is heavily influenced by the integration of Chinese Medicine into the national health care system. The result has been a dual system of both Western and Chinese medicine. Chinese medicine is also integrated into the training programs of health care practitioners.

Qualification as a traditional medical physician can be achieved through a number of routes, typically combining post-secondary academic studies and one to two years of practising, teaching, or researching traditional medicine.

[14] What you need to know to apply for NCCAOM certification, National Certification Commission for Acupuncture and Oriental Medicine, www.nccaom.org
[15] National Certification Commission for Acupuncture and Oriental Medicine, State Licensure Information, www.nccaom.org
[16] Recommendation 20, Final Report of the White House Commission on Complementary and Alternative Medicine Policy, March 2002, page 154

Practitioners in China come through three channels: those that have learnt Traditional Chinese Medicine through family members without any formal education training; graduates from Traditional Chinese Medicine universities; and doctors trained in Western medicine who wish to transfer to Traditional Chinese Medicine.

Under a 1985 circular (*223*) issued by the Chinese Ministry of Public Health's Department of Traditional Chinese Medicine, practitioners who studied under the former apprenticeship system which operated before formal examinations were introduced in the 1960s were allowed to take the formal examinations leading to qualification as a traditional medical physician or assistant.

These examinations generally follow the completion of courses administered by private educational institutions, which have been recognized by the Chinese Government. The courses may be taken as correspondence courses, night classes, or at workers' universities. Candidates who fail these tests, or decide not to take them, must pass a unified examination offered by the Health Department before their qualifications to practise as traditional Chinese medicine assistants or physicians will be recognized.

For assistants, the examination is based on information taught at the secondary school level. There is a more demanding unified exam based on a three-year post-secondary education for those in the apprenticeship system who wish to convert their existing status to the level of pharmacist or physician of traditional medicine.

In addition to physicians and assistants, a third tier of health professional exists in traditional Chinese medicine: individuals examined and officially recognized as proficient in a particular branch of traditional medicine. However, the absence of a uniform method of assessment for these practitioners has led to some unqualified individuals being able to obtain official recognition, according to a 1989 circular issued by the State Administration of Traditional Chinese Medicine (*224*). Motivated by a desire to protect the integrity of traditional medicine and to safeguard patients' interests, the response of the State Administration has been to introduce annual testing of practitioners in this third tier.

Tests are administered by a group of senior traditional medicine practitioners. The annual testing involves both a theoretical component and a clinical examination. Successful completion of the annual testing leads to a certificate, which details the candidate's specific skills and the range of Western Pacific diseases that can be treated. Failing the annual test results in cancellation of the candidate's certificate and right to practise, pending re-examination.[17]

The majority of practitioners in hospitals in large Chinese cities now hold university degrees and students graduating in either Western medicine or Traditional Chinese Medicine are considered to be of the same standard.

The Chinese government established the first four universities to teach Traditional Chinese Medicine in 1985. Since then the number has grown enormously. Shanghai alone has 19 separate Traditional Chinese Medicine educational institutions and 23 public hospitals, which practise Traditional Chinese Medicine.

[17] Legal Status of Traditional Medicine and Complementary/Alternative Medicine: A Worldwide Review, 2001, World Health Organisation, page 150-151

Undergraduate courses are five years. The first three years are devoted to the study of the most important aspects of pre-clinical Western medicine with subjects such as biochemistry and pharmacology as well as the basic foundations of Traditional Chinese Medicine. Two years of clinical study then follows.

All teachers during the last two years are clinical doctors and a combination of practical hospital work and lectures is used to teach the students.

The students are then required to undergo three examinations at the conclusion of their fifth year. The first examination is on the basic clinical principles of Western medicine. The second examination tests students on theoretical principles. The third is by thesis.

Examinations are set and conducted by the National Administration on Traditional Chinese Medicine.

Graduates then work in a hospital under supervision in the manner of a junior resident, with no rights of prescription. At the conclusion of this they sit another examination followed by the licensing test.

Continuing education is required and in the big cities such as Shanghai, Beijing and Nanjing courses are generally run by the hospitals and are of a high standard. Courses are not so robust in rural areas where they are often run by private hospitals and clinics. China has a policy of allowing non-university trained practitioners to teach in provincial areas to address rural shortages.

The Committee was advised by the Shanghai Department of Health that in 2002 a regulation was enacted prohibiting Traditional Chinese Medicine practitioners from dispensing herbs. These are now only dispensed through clinics, hospitals or pharmacies.

If clinics and hospitals wish to dispense herbs they must apply for a license. The relevant city or province's Food and Drug Administration regulate individual pharmacies.

Hong Kong

In 1989 the Hong Kong government established the Working Party on Chinese Medicine, which produced a report in 1994.

In line with the Working Party recommendations a Preparatory Committee was established to make recommendations to the government on the promotion, development and regulation of Chinese Medicine in Hong Kong. The key recommendations included:

- *A statutory body be set up to regulate the practice, use and trading of Chinese medicine;*
- *A system of accreditation and regulation which included registration, examination and discipline of Chinese medicine practitioners be established with transitional arrangements for existing practitioners; and*

- *A control mechanism, through systems of registration, licensing and labelling be set up to regulate the manufacture, distribution, retail and import and export of Chinese medicines.*

In relation to the future development of Chinese medicine, the Preparatory Committee recommended that:

- *Full-time educational courses in Chinese medicine be developed and made available in Hong Kong;*
- *Scientific research and development in Chinese medicine be encouraged and supported; and*
- *Chinese medicine be included into Hong Kong's medical and healthcare system on a gradual basis.*

Article 138 of the basic law of the Hong Kong Special Administrative Region reflected the policy direction on Chinese Medicine and the *Chinese Medicine Bill* was passed on I July 1999. The *Chinese Medicine Ordinance* provided for the establishment of the Chinese Medicine Council of Hong Kong. The Council is the regulatory body for Chinese Medicine and has responsibility for the registration of practitioners.

Practitioners with an undergraduate degree in Chinese Medicine practice are eligible to sit for the licensing examination. Passing the licensing examination entitles the practitioner to hold a practising certificate for a renewable three-year period.

Licensed practitioners must abide by a code of conduct or be subject to an inquiry and possible punishment including deregistration. Licensed practitioners must also comply with regulations on continuing professional education. Limited registration is available for those involved in clinical teaching or research in Chinese Medicine.

In relation to grand-parenting provisions, all practitioners who were already practising when registration was introduced in Hong Kong were eligible to apply to become listed practitioners. Alternative qualifying assessments were then carried out.

From 1 January 2000 all practitioners of Chinese medicine in Hong Kong were invited to register.

Practitioners were required to submit details of their academic background, work experience and proof that they had practised in Hong Kong.

Practitioners who had practised Chinese Medicine in Hong Kong continuously for more than fifteen years were granted direct registration without needing to undergo either assessment or examination.

Applicants who had been practising for less than fifteen years but for at least ten years who held approved academic qualifications were also eligible to the same entitlements.

Practitioners in the previously mentioned category without academic qualifications were required to be assessed for registration. If they failed to meet the requisite assessment criteria they were then required to sit for the licensing examination.

Applicants with approved academic qualifications but less than ten years experience in practice also had to be assessed for registration.

Applicants with less than ten years of practice and no academic qualifications were deemed not eligible for the assessment process and were required to sit the licensing examination in order to become registered.

To date three licensing examinations have been conducted in 2003, 2004 and 2005. The examinations are comprised of multiple-choice questions.

As a result of the registration process Hong Kong now has two types of category of Chinese Medicine Practitioner: registered and listed.

As the Board has now finished assessing all the Chinese Medical Practitioners who were eligible, practitioners who had not practised for more than 15 years and did not meet the assessment criteria and were unwilling to sit the examination were categorised as listed rather than registered. These are mainly elderly practitioners who have never gained qualifications.

The Chinese Medicine Council has not yet decided on the length of time that the listed practitioners will be allowed to keep practising.

The Council plans that a five-year full time degree will eventually be required for all future registrants.

The Council also grants limited registration to applicants employed by an educational or research institution solely for the purposes of clinical teaching or research.

The registration of Chinese Herbal Dispensers began in May 2003.

The first phase of the process involved regulating practitioners who dispensed. The second phase is registering the traders. To date, 16,000 applications have been received.

Taiwan

The amended Organization Law of the Department of Health became effective on July 29, 1987. Article 17 of the Law stipulates that a Committee on Chinese Medicine and Pharmacy be established in the Department of Health to handle matters concerning the administration, research and development of Chinese medicine and pharmacy, and that the organization of the Committee be decided under separate regulations.

The Committee is currently undertaking efficacy studies of traditional Chinese Medicine and working on integrating its practice into westernised health treatment within the health system.

There are fifteen members on the Committee including the President of the Traditional Chinese Medicine University.

The Committee meets monthly.

In accordance with the Organisational Regulations of the Committee, the Committee handles the following matters in the divisions listed below:

The Chinese Medicine Division is responsible for:

- Formulation, planning and supervision of Chinese doctors
- Management and supervision of Chinese medicine doctors
- Assistance and promotion of Chinese medicine doctors
- Planning, supervision and promotion of medical care institutions for Chinese medicine and the formulation of medical care institutions for Chinese medicine and relevant standards
- Clinical and other training programs for Chinese medicine personnel
- Supervision of Chinese medicine and medical care providers
- Control of advertisements for Chinese medicine
- Other administrative and technical matters concerning Chinese medicine

The Chinese Pharmaceuticals Division is responsible for:

- Formulation, planning, amendment and supervision of policies on Chinese Pharmaceuticals
- Supervision, promotion and review by national standards of Chinese pharmaceutical firms
- Supervision of the manufacturing and quality control of Chinese pharmaceutical products
- Supervision of the quality control and safety of Chinese pharmaceutical ingredients
- Supervision of the on-job training of Chinese pharmaceutical practitioners
- Supervision of advertising of Chinese pharmaceutical products
- Other administrative matters concerning Chinese pharmaceuticals

The Research and Development Division is responsible for:

- Matters concerning the diagnosis of Chinese medicine, clinical assessment of Chinese medicine and pharmaceuticals and their research and development
- Assessment of the clinical efficacy of acupuncture and meridian points and their research and development
- Matters concerning the research and improvement of Chinese pharmaceutical products and preparations
- Research on the original raw materials of Chinese pharmaceuticals and their indications, quality, specification and pharmokinectic study
- Promotion of international exchanges of information concerning Chinese medicine and pharmaceuticals
- Other matters concerning the research and development of Chinese medicine and pharmaceuticals

The Information and Publications Division is responsible for:

- The development of information systems on Chinese medicine and pharmaceuticals
- Collection and compilation of classical works on Chinese medicine and pharmaceuticals and the publication of an Annual Report on Chinese medicine and pharmaceuticals
- Other matters concerning the information and publications and techniques of Chinese pharmaceuticals

In Taiwan herbs are licensed under a similar model as the United States Federal Drugs Administration. All new drugs, including herbs, must be assessed before they are registered in Taiwan.

Taiwan has thirteen clinical trial centres relating to herbs and traditional Chinese medicine.

All traditional Chinese Medicine practitioners in Taiwan also learn Western medicine.

In Taiwan traditional Chinese medicine practitioners must pass an exam to gain a license to practice. There has been tension between Western and Chinese medical practitioners. As a result it was decided that everyone who wants to practice traditional Chinese medicine must go to University and undertake continuing education.

Every Western doctor in Taiwan can practice any aspect of traditional Chinese medicine except acupuncture.

There is a grand-parenting system. All practitioners are assessed on an individual basis.

Practitioners are required to re-register every six years.

Korea

Traditional Korean medicine, which can trace its origin to China is some 2000 years old.

The *Medical Service Act* was amended in 1951 to introduce a licensing system for traditional Korean medicine practitioners.

In tandem with the *Pharmaceutical Affairs Act* it stipulates the qualifications, licensing requirements and professional obligations of traditional Korean medicine practitioners and oriental pharmacists.

The *National Health Insurance Act* regulates the health insurance programme including health care benefits. Health insurance to cover oriental medicine was introduced in 1987 since then it has been included within the public sector health system.

Under the insurance scheme a limited range of traditional Korean medicine treatment has been included within the public health system including: acupuncture; moxibustion; and movacautery.

The introduction of the insurance has seen the number of cases treated with traditional Korean medicine escalate from 320,770 cases in 1987 to 29,299,908 in 2003. The numbers of traditional Korean medicine facilities is also increasing.

Registered traditional Korean medicine doctors are also increasing from 5,792 in 1990 to 13,564 in 2003. This accounts for 12 per cent of all doctors in Korea. Amongst these, 1,185 work for general hospitals or traditional Korean medicine hospitals and 9,440 run private clinics.

The *Medical Service Act* and the *Pharmaceutical Affairs Act* stipulate that only certified oriental medical doctors or pharmacies who receive a prescription written by a traditional Korean medicine doctor can provide patients with any of the herbal medicines listed under the Korean Pharmacopoeia.

Singapore

Although the Singapore health budget is focussed on providing Western medicine, Singapore has a history of providing Traditional Chinese Medicine Clinics free of charge to the public. These are generally owned and run by Buddhist monks, community groups or charities.

These clinics had traditionally never been monitored or regulated by the government except for a few potent Chinese herbs, which were placed under the Singapore *Medicines Act.*

During the early 1990s the Singapore government decided to assess the status of Traditional Chinese Medicine and undertook a formal review.

As a result of this review practitioners of Traditional Chinese Medicine are now registered and issued with a license to practice through the Traditional Chinese Medicine Practitioners Board, which was established under the *Traditional Chinese Medicine (TCM) Practitioners Act 2000*.

The Board also has responsibility for the accreditation of schools and courses and for regulating the professional conduct and ethics of registered practitioners.[18]

The *Traditional Chinese Medicine (TCM) Practitioners Act (2000)* interprets the practice of Traditional Chinese Medicine as:

> *(a) acupuncture;*

[18] Ministry of Health Singapore website http://www.moh.gov.sg/corp/systems/traditional/intro.do

(b) the diagnosis, treatment, prevention or alleviation of any disease or any symptom of a disease or the prescription of any herbal medicine;

(c) the regulation of the functional states of the human body;

(d) the preparation or supply of any herbal medicine on or in accordance with a prescription given by the person preparing or supplying the herbal medicine or by another registered person;

(e) the preparation or supply of any of the substances specified in the Schedule;

(f) the processing of any herbal medicine; and

(g) the retailing of any herbal medicine.

The Minister is able to list any other practices as practices of Traditional Chinese Medicine.

The Act requires the applicant to be of good reputation or character to be eligible for registration and licensing.

Singapore now requires new practitioners to undertake a six-year part time course, which is currently not a university degree course but ranks above polytechnic status.

The course is part time to allow existing practitioners and other students to support themselves by working while studying.

The Board hope to move to a degree course in the future.

The legislation was introduced in Singapore in 2000 in three distinct legislative stages. Acupuncturists were registered first as they were considered to pose the greatest potential public risk.

Following the registration of acupuncturists all herbalists were registered.

Lastly, the Board is currently calling for voluntary listing of herbal dispensers prior to registration being undertaken.

Eventually there will be a requirement that dispensers undertake a three and a half year course.

Chapter Three - Registration of Practitioners of Traditional Chinese Medicine in New South Wales

The Case for Registration

As noted in the World Health Organisation Report *Legal Status of Traditional Chinese Medicine and Complementary/Alternative Medicine: A Worldwide Review* many countries have either already registered Traditional Chinese Medicine or are considering doing so.

The possible dangers of wrongly applied acupuncture and possible toxicity of Chinese herbs has been well documented and is generally accepted. At this time the effects of the interaction between Chinese herbal and Western medicines are largely unknown and are of concern.

While Traditional Chinese Medical Practitioners remain unregistered there is little that can be done about uniformity of standards and practices or complaint handling and disciplinary processes. It was the consensus of the submissions to the Committee (with the exception of the New South Wales Medical Board) from key stakeholders that the practice of Traditional Chinese Medicine should be formally regulated for those reasons.

As Mr Kieran Pehm, the New South Wales Health Care Complaints Commissioner, told the Committee, while Traditional Chinese Medicine practitioners remain unregistered there is little the system can do to sanction them or order remedial training:

> *People who practice traditional Chinese medicine are health service providers under our Act, so we have the power to investigate their conduct. There is a paucity of regulation of any outcome. We can terminate the investigation, but the most severe outcome we can have is to make comments to the practitioner if we find their practice to be unsatisfactory, and that is not a very effective remedy.*

Dr Stephen Li, Senior Vice President of the Australian Chinese Medical Association told the Committee that there was real concern within the Chinese community about the quality of some practitioners. In the absence of formal regulation quality assurance was a real issue:

> *Because of my involvement in the Chinese Australian community, whenever there are problems or complaints we often get feedback from the Chinese Australian community and also because I am a chemical pathologist we often have to deal with patients who develop very serious adverse side effects because of TCM or other herbal medicine....most of the complaints that we receive from the Chinese Australian community are that they have been victimised, they have been ripped off by people who claim to be TCM practitioners, and even ACMA doctors. We have members who are practising for instance in Chatswood or Hurstville, areas that have a high Chinese population, and they are disgusted by people who claim to be Traditional Chinese Medicine practitioners who rip people off. Some of these patients have terminal illnesses and they rip them off before they die. So this is quite sad and the community always asks for some sort of control and regulation and I think it is the responsibility of the government to control and regulate.*

Similarly, Mr Alex Kiss, Team Leader of Environmental Health at City of Sydney Council, outlined problems the Council finds with the basic clinical and hygiene standards of some Traditional Chinese Medicine practitioners during regular inspections conducted under *Public Health (Skin Penetration) Regulation 2000:*

> *Really simple stuff that there is no excuse for in regard to acupuncturists, reuse of un-sterilised needles, use of new needles that have not been sterilised in the first place, use of sterilised needles which are way beyond their use by date. I destroyed some that said "use by 2001" last week that were found in a premises. Issues with personal hygiene, no soap and towel and hand basins. Some premises have not had hot water. They are not using single use gloves. Problems with premises where there are holes, access for vermin, inadequate construction……We are finding a lot of practitioners are using improper or no contaminated waste containers and when they are, they are not using them properly. They are overfilling them. The top part, which has these plastic fingers to prevent taking things out and risk of injury, that is being removed. A really common problem is that they are not disposing of them, they have not got a contract with an EPA or DEC licensed waste contractor to dispose of contaminated waste as it should be.*

Mr Kiss also expressed frustration at the inability to address the problems effectively under the current regulatory regime:

> *Normal protocol when we find problems is through education and verbal warnings. We issue an inspection order sheet for every inspection, we issue warning letters. We can use notices and orders under the "Local Government Act" and as a last resort take prosecution action, but there is a lot of limitations and difficulty with taking prosecution action.*
>
> *Primarily the way the legislation has been framed under the "Public Health (Skin Penetration) Regulation" is really weak. To catch someone or prove someone is using un-sterilised equipment to penetrate skin you virtually have to catch them and get verbal admissions. The legislation is so poorly framed.*
>
> *…. The other thing is that the penalties are woefully inadequate. The maximum penalty under the legislation is 20 penalty units, which is about $2,200. I compare this to food legislation, that has gone up to 500 penalty units for individuals and up to 2,500 for corporations. That is for strict and absolute liability offences, and it goes up to 5,000 penalty units for offences where people knowingly commit offences. Food safety is very important and so is infection control in skin penetration and it should be given equal billing.*

Each of the top ten councils listed in Table 2.14 from the publication entitled "The People of New South Wales"[19] as having the highest number of people of Chinese Ancestry based on census data were contacted and asked to provide feedback on their experiences in inspecting premises used by acupuncturists for compliance with the *Public Health (Skin Penetration) Regulation 2000*.

[19] Community Relations Commission for a Multicultural New South Wales, 2001, The People of New South Wales

The following councils: Bankstown, Baulkham Hills, Canterbury, Fairfield, Hornsby, Parramatta and Randwick provided the Committee with feedback.

Non-compliance by acupuncturists with the *Public Health (Skin Penetration) Regulation 2000* was said to be an issue for all councils with some acupuncturists continually failing to comply.

Environmental Health Team leaders classified acupuncture as a high-risk area. Procedures like bloodletting were being performed in one council area using un-sterilised needles. Other breaches of a serious nature include the re-use of single use needles.

There was consensus that the *Public Health (Skin Penetration Regulation) 2000* needed to be more stringent to be effective in deterring non-compliance.

Reports were made of a use by councils of other codes to regulate acupuncturists. For example reviewing structural issues related to hygiene at the development approval stage. This option would not be available to other agencies inspecting acupuncturists under the *Public Health (Skin Penetration Regulation) 2000.*

Other professions were said to perform better than acupuncturists in complying with the *Public Health (Skin Penetration) Regulation 2000*. The regulation of food premises was sighted as an area where much more severe penalties were faced by non-compliant businesses. There was wide spread support for the introduction of on the spot fines which are said to be less costly to administer and a means of reducing legal costs. Support was also offered for an increase in the penalties under the *Public Health (Skin Penetration Regulation) 2000.*

The Committee understands that NSW Health has recently reviewed the *Public Health Act* and is recommending that the penalties be increased for breaches of the *Public Health (Skin Penetration) Regulation.*

Professional Associations

While most professional associations do attempt to control standards and address issues involving accreditation and continuing education, it is totally voluntary for a practitioner to belong to any association. It is also probably fair to say that these associations are too numerous, represent many diverse interests and possess a lack of commonality on many important issues.

Of the ten Traditional Chinese Medicine professional associations who prepared submissions for this inquiry, two were in opposition to either registration or regulation of practitioners of Traditional Chinese Medicine. While the remaining eight were in favour of some sort of regulation there was no consensus over the preferred model for regulation. Two associations advocated co-regulation by a statutory body with compulsory membership of a professional association. Four were in favour of a statutory body being established to register practitioners. The remaining submissions were in favour of a combination of accreditation and regulation policies.

There are twenty-six associations covering both Complementary and Traditional Chinese Medicine listed in Schedule One of the Therapeutic Goods Administration which allows members to advertise without being subject to the advertising requirements in the *Therapeutic Goods Act 1989* and its accompanying regulations.[20]

An additional ten professional associations representing Complementary and Traditional Chinese Medicine were identified in a brief survey of associations.

Towards a Safer Choice, The Practice of Traditional Chinese Medicine in Australia found that there are twenty-three professional associations identified.

Other findings in this report regarding professional associations include:

- There is no peak body which represents the entire Traditional Chinese Medicine profession;
- Full membership varies from 40 – 764 with more than half of the associations possessing less than 150 members (The Australian Acupuncture and Chinese Medicine Association report having 1450 members nationally with more than 1300 of those members accredited practitioners);[21]
- Not all Traditional Chinese Medicine professional associations have substantive procedures for complaints handling, quality assurance and referrals to other health professionals.[22]

The Committee is therefore of the view that, on public safety grounds, there seems to be ample evidence that Traditional Chinese Medicine should be a registered health profession in New South Wales. It also appears that the community generally as well as most key stakeholders are also in favour of this.

Registration Legislation

The Committee recommends that legislation be enacted to allow for the creation of a statutory registration body for practitioners of Traditional Chinese Medicine in New South Wales.

Registration would be in line with the fundamental principles of the Victorian *Chinese Medicine Registration Act* in that regulation should be by restriction on title of registration.

There should be three distinct divisions of the register:

- Acupuncturist
- Chinese Herbal Medicine Practitioner
- Chinese Herbal Medicine Dispenser

[20] The Therapeutic Goods Administration Website http://www.tga.gov.au/docs/html/advsch1.htm
[21] Australian Acupuncture and Chinese Medicine Association Website http://www.acupuncture.org.au/history_of_aacma.cfm
[22] Alan Bensoussan and Stephen P Myers, 1996, Towards a Safer Choice – The Practice of Traditional Chinese Medicine in Australia, University of Western Sydney, page 144-145

This is in keeping with the *Chinese Medicine Registration Act 2000* from Victoria in which registration is possible as either general or specific depending on the degree of compliance of the applicant with the registration criteria.

The following practitioners are registered in the three available divisions in Victoria:[23]

Division	Number of Registrants
Acupuncture and Chinese herbal medicine practitioner	456
Acupuncture only	325
Chinese herbal medicine practitioner only	37
Chinese herbal dispensers only	0
Total number of registered practitioners	818

In their submission to the Committee NSW Health state that *existing legislation did not adequately address the potential risks to public health and safety from unregulated TCM practitioners.*

The NSW Health submission further states that: *The Advisory Committee concluded that is not possible to reduce the demonstrated risk to public health and safety by modifying existing legislation.*

The Committee concurs with the conclusion of NSW Health in advocating for the development of new legislation for the registration of Traditional Chinese Medicine practitioners.

Constitution of a Board

Appointment of Board Members

In line with the all of the other health professional boards, except for the NSW Medical Board and the NSW Nurses Board, the Committee considers that the Governor should appoint the Members of the Traditional Chinese Medicine Board on the advice of the Minister.

The absence of peak bodies or a College in the area of Traditional Chinese Medicine makes any other method of appointment of Board Members problematic, particularly as there are currently so many Traditional Chinese Medicine professional associations in existence. These associations also have differing views on standards.

The special problems, which face registering Traditional Chinese Medicine practitioners, must be acknowledged. For example, there are practitioners with sometimes long histories of practice but limited English language skills and/or qualifications from countries such as China that may be almost impossible to verify.

[23] Chinese Medicine Registration Board Victoria website http://www.cmrb.vic.gov.au/cgi-bin/cmweb.exe/Intro

It is therefore important to ensure that the bulk of the registration and grand-parenting processes are completed as efficiently and as expediently as possible. This can only be done through the establishment of a cohesive board in as short a time as possible following the enactment of the legislation.

At present all health professional boards except the New South Wales Medical Board and the Nurses and Midwives Board of New South Wales are appointed by the Governor on advice of the Minister for Health. It would be consistent to appoint Traditional Chinese Medicine Board members in this manner.

Qualifications and Numbers of Board Members

The Traditional Chinese Medicine Practitioners Act 2000 (Singapore) Part II (3) (2) specifies that:

> *The Board shall consist of not less than 5 and not more than 9 members to be appointed by the Minister, of whom –*
>
> *(a) one shall be a registered medical practitioner;*
>
> *(b) one shall be a Registrar ex-officio; and*
>
> *(c) 2 shall be registered persons with at least 10 years experience in any prescribed practice of traditional Chinese medicine.*

The Act also specifies:

> *(3) Every member, except the Registrar, shall hold office for a term of 3 years and shall be eligible for reappointment.*
>
> *(4) The Minister may, at any time, revoke the appointment of any member without assigning any reason.*

In contrast, Section 69 of the *Chinese Medicine Registration Act* 2000 (Victoria) specifies that:

> *(1) The Board consists of 9 members nominated by the Minister and appointed by the Governor in Council.*
>
> *(2) Of the persons appointed to the Board –*
>
> *(a) 6 must be registered practitioners and each of those practitioners must have had at least 5 years practice as a Chinese medicine practitioner or a Chinese herbal dispenser;*
>
> *(b) one must be a lawyer; and*
>
> *(c) 2 must be persons who are not registered practitioners.*
>
> *(3) At least 2 members of the Board must be able to communicate in English and either Mandarin or any other Chinese dialect.*

In determining the number of Board members the ongoing expenses such as Members' sitting fees must be taken into account. The exact number of members to be appointed to the New South Wales Traditional Chinese Medicine Board is a matter for the Minister for Health.

At this time it is impossible to estimate the expected numbers of registrants to a New South Wales Board. Based on Victoria's registration figures the Committee considers that the New South Wales membership will be similar to one of the smaller New South Wales health registration boards such as the New South Wales Chiropractors Board.

At present, the New South Wales Chiropractors Board has 1306 registered chiropractors. This Board has seven members. Seven members seems to be the minimum number at which a Board would effectively be able to operate and still represent a range of relevant stakeholders.

Section 87 of the *Chiropractors Act 2001* (NSW) requires that seven members are nominated by the Minister for Health and appointed by the Governor as follows:

- One is an officer of the Department of Health or an employee of an area health service, statutory health corporation, or affiliated health organisation within the meaning of the *Health Services Act* 1997, pursuant to section 87(2)(a) of the Act;

- Two are registered chiropractors nominated from a panel of chiropractors nominated by the Chiropractors Association Australia New South Wales, and such other bodies representing chiropractors as may be determined by the Minister;

- One is a registered chiropractor involved in the tertiary education of persons for qualification in New South Wales as chiropractors;

- One is a registered chiropractor of the Minister's own choosing;

- One is a person who is not a chiropractor and acts as a community representative;

- One is a legal practitioner.

The Committee hopes that in the future, as the profession becomes more cohesive, the New South Wales Traditional Chinese Medicine Registration Board can be appointed in a similar way as the Chiropractors Board and other similar health registration boards. On the basis of the Chiropractor's Board's experience, seven members appears to be a workable number.

The Committee considers that the Singapore precedent of requiring one Western medical practitioner to be appointed to the New South Wales Traditional Chinese Medicine Registration Board has strong merit.

Throughout the inquiry the Committee was provided with persuasive evidence that there is a need for traditional Chinese medical practitioners to have a greater knowledge of Western medicine, particularly in relation to differential diagnosis and the possible interaction between Chinese herbs and Western medications.

It was also argued that there needed to be more understanding and interaction between the professions. For example, Dr Rebecca Chow, Past President of the Australian Medical Acupuncture College, argued before the Committee that:

> *I believe that to adequately comment on these matters one needs dual expertise and the way that this system is run is that you have western trained doctors rubbishing acupuncture, rubbishing Traditional Chinese Medicine, you have Traditional Chinese Medicine doctors rubbishing doctors and rubbishing the practice (of western doctors performing Traditional Chinese Medicine), so you have not had any meeting between the two. In particular, the Victorian legislation was really set up independently of any – almost nil medical input, so that the idea that you have a separate Chinese medicine registration board without any medical input whatsoever is a very flawed model……I think there should be a joint committee with dual expertise.*

Similarly, Dr Stephen Li, Senior Vice President of the Australian Chinese Medical Association advocated for greater understanding between Western and Traditional Chinese Medicine Practitioners.

When asked what may encourage more referrals between medical doctors and Traditional Chinese Medicine practitioners his response was:

> *At the moment it is not easy because there is absolutely no understanding between the two professions.*

While the Committee notes that none of the New South Wales health registration boards other than the New South Wales Medical Board are required to have a registered medical practitioner appointed to their board, it believes that such an appointment would: assist the Board to recognise issues relating to differential diagnosis; help identify and decide where educational boundaries should lie in relation to Traditional Chinese Medicine practitioners' expected knowledge of Western medicine; and help promote understanding and interaction between the professions.

The Committee also believe that a board member with legal qualifications should be appointed to ensure that the rules of natural justice are followed, as well as a lay member representing the community.

Consistent with the other smaller health professional boards the Committee also consider that it would be appropriate to appoint an officer of NSW Health or an Area Health Service. The remaining members of the board should be Traditional Chinese Medicine practitioners representing acupuncturists, herbalists and herbal dispensers.

The Committee believes that the legislation should require that one Board Member is able to speak English and either Cantonese and/or Mandarin and represent the Chinese community. This is also consistent with the Victorian legislation.

In keeping with other New South Wales health registration legislation, each appointment should be for a period of three to four years.

Secretariat

In New South Wales all health professional registration boards except for doctors, pharmacists and dentists have their secretariats under the jurisdiction of the Health Professionals Registration Boards.

The economies of scale offered by this system allow for the boards to be completely self funding but still minimise the fees paid by members.

The Victorian Chinese Medicine Registration Board has its own dedicated secretariat and, with a membership of only 880 members, charges annual registration fees of $410 for registration in one division, $470 for registration in two divisions and $530 for registration in three divisions. These fees are very high if compared to the fees charged by some of the smaller New South Wales registration boards. For example, the New South Wales Chiropractors Registration Board has annual re-registration fees of $250. New South Wales Osteopaths pay annual re-registration fees of $285.

In their submission to the Committee NSW Health recommend that the registration board: *Should fall under the administration of the Health Professionals Registration Boards in order to achieve economies of scale.* The Committee concurs with this recommendation.

Regulation of Other Health Professionals Practising Traditional Chinese Medicine

The Victorian Chinese Medicine Registration Act 2000 provides for the examination of the qualifications and experience of other registered practitioners in relation to Traditional Chinese Medicine by the relevant board.

The view of the Victorian government in 2000 is quoted in the submission from the Department of Human Services on dual registration as:

> *Given the risks associated with practice of Chinese medicine, practitioners, whether already registered or not, should have their qualifications assessed for the purposes of using protected professional titles such as "acupuncturist";*
>
> *It is unacceptable from the point of view of public protection for there to be no scrutiny of the qualifications of registered medical practitioners, nurses, chiropractors, physiotherapists, etc in order for them to offer acupuncture services to the public;*
>
> *Dual registration should not be mandatory, as long as there is one registering authority scrutinising a practitioner's qualifications and practice and there is an avenue for patients to have any complaints dealt with effectively.*[24]

When the Chinese Medicine Registration Board of Victoria was established eight other registration boards were given powers by the Victorian parliament to regulate the practice of Chinese medicine by their registrants. Legislative reform involving the enabling legislation of

[24] Submission number 32 from the Victorian Department of Human Services

the Chinese Medicine Registration Board of Victoria in 2003 resulted in the powers of these eight boards being limited.

The boards may now authorise the use of the term "acupuncturist" but not any other title restricted by the *Chinese Medicine Registration Act 2000* (with the exception of the Pharmacy Board of Victoria who can use the term "Chinese Herbal Dispenser"). Boards now grant endorsement to practitioners following an examination of their qualifications.

In their submission to the Committee the Department of Human Services also note that the Minister for Health stated in the second reading speech that the government does not want to see eight separate standards for acupuncture set by eight different boards. This position is in keeping with the Report to the Ontario (Canada) Minister of Health and Long Term Care entitled "Traditional Chinese Medicine and Acupuncture in Ontario" published this year, which recommends that:

> *Regulated health professionals who use acupuncture as an adjunct therapy in the course of their professional practice be authorised to perform it only if they possess the required education and competencies as set by their respective college or board to safely practice acupuncture, and that it is practised only within the scope of practice and standards of practice of their respective profession.*[25]

The Australian Acupuncture and Chinese Medicine Association go further than the Victorian position on dual registration in their submission to the inquiry by advocating for:

> *…health care providers registered with other NSW boards should be required to be dually registered if they wish to use the titles, such as "acupuncturist" or "Chinese medicine practitioner", to be protected under a future traditional Chinese medicine (TCM) registration act.*[26]

At the Public Hearing for the Inquiry into Traditional Chinese Medicine Professor Alan Bensoussan stated that:

> *Self-reported adverse events also appear to be linked to the length of training in Chinese medicine. So where people did short courses of traditional Chinese medicine or acupuncture training, also herbal medicine or acupuncture training, they reported more adverse events than those people who did four or five years of training, and the medical practitioners were no different. They also have higher adverse event rates if they had practised less, if they had studied less in the field of traditional Chinese medicine. So there seems to be a link between those two.*[27]

As previously recommended, regulation of Traditional Chinese Medicine Practitioners should be through restriction of title. The Committee therefore considers that it would be inappropriate for other health practitioners to use those titles without dual registration with the Traditional Chinese Medicine Board. This is consistent with the title provisions contained in the legislation of the other health professional registration boards.

[25] MPP Consultation Group on Traditional Chinese Medicine and Acupuncture, Summer 2005, Traditional Chinese Medicine and Acupuncture in Ontario, Report to the Minister of Health and Long Term Care, page 4
[26] Submission number 29 from the Australian Acupuncture and Chinese Medicine Association
[27] Evidence provided at the Public Hearing for the Inquiry into Traditional Chinese Medicine 31 August 2005

The Committee believe that doctors who perform acupuncture should be able to use the title "medical acupuncturist" with the approval of the NSW Medical board.

This is in keeping with the findings of the Independent Advisory Committee established by the former Minister for Health who are cited in the submission from NSW Health as saying that: *The Committee recognised the extent to which the practice of acupuncture by the medical profession constitutes a medical speciality. The Committee discussed the advantages of medical practitioners, who have qualifications in acupuncture and practise this discipline being clearly identified in their own right. Recognition of the title "medical acupuncturist" linked to qualifications accredited by the Royal Australian College of General Practitioners (RACGP/AMAC) would further assist consumer choice.*

The criteria used by any health practitioner registration board for endorsing their practitioners to perform acupuncture should be transparent and developed in consultation with the registration body for Traditional Chinese Medicine in New South Wales.

Complaint Handling

In line with NSW Health policy the Traditional Chinese Medicine registration legislation should be as uniform as possible with the existing twelve health registration Acts.

Complaints, assessments, investigations and disciplinary procedures should be addressed in a co-regulatory way through the New South Wales Health Care Complaints Commission and the New South Wales Traditional Chinese Medicine Registration Board in line with the other registered health professions in New South Wales.

As previously mentioned, the Committee recommend that that the Traditional Chinese Medicine Board be integrated into the present co-regulatory system where all complaints are assessed, investigated and prosecuted by the New South Wales Health Care Complaints Commission.

A code of conduct for Traditional Chinese Medicine practitioners is a recommendation of NSW Health. In their submission they suggest that the code of conduct require practitioners to:

- *Recognise the limits of their professional knowledge and skill,*
- *Provide timely and appropriate referral to medical practitioners,*
- *Recognise the importance of fully informing consumers about their options in relation to Traditional Chinese Medicine therapies and herbal medicines,*
- *Recognise the practice of ethical dispensing – ie dispensing on the basis of patient need as opposed to other interests (eg pecuniary).*

The Committee considers a code of conduct to be in keeping with standards for other health professionals, and with the practices of international jurisdictions like Singapore and Hong Kong. It is also in the best interests of public safety and effective complaint handling practices.

During an appearance before the Committee on 31 August 2005 the Health Care Complaints Commissioner, Mr Kieran Pehm, was asked whether there was an officer within the Commission who could speak Cantonese or Mandarin. Mr Pehm replied that he was unsure of this and acknowledged that the Commission may need to change some of its practices if traditional Chinese medicine was to be registered and there was an increase in complaints received:

> *It is a big problem in this area, I recognise that, and perhaps if it was regulated we might have to look at identifying some specific positions with those qualifications. The complaint I mentioned earlier, the Public Health Unit had a look at it and they had to take an interpreter out with them because the practitioner was not really capable of communicating in English. So I recognise there is certainly a need there and it is something we would have to address.*

In response to a question on the proportion of complaints from people who speak a language other than English, Mr Pehm offered this response:

> *Again, that is very difficult to comment on off the cuff. We would have to look at the degree to which the interpreter services were used. A lot of people do handle it in less formal ways, through using friends and people that accompany them and so on. It would be quite difficult to estimate.*

The use of friends and family in place of accredited interpreters is of concern to the Committee as are the difficulties raised in monitoring the number of complainants who speak a language other than English.

The use of accredited translators and interpreters in all instances would ensure compliance with the New South Wales government commitment to the provision of linguistic services to ensure the full, fair and equal participation of all people in programs, services and processes.

Mr Pehm acknowledged the work, which needs to be done on the monitoring of the demographics of complainants at the public hearing on the 3 March 2005:

> While there is no demographic data collected on a complaint form, when a complaint is received, every complainant is sent out a demographic survey form with those sorts of issues. The response rate to that is about 19 or 20 per cent. That material was collected during this financial year but not collated in a readily available form to publish when doing the annual report. We will continue to do that

Cultural differences in relation to Traditional Chinese Medicine practitioners who may have been born and trained overseas must also be recognised. The Committee would therefore like to see the cultural background of the peer reviewers that the Commission selects in relation to Traditional Chinese Medicine to be reflective of the practitioner workforce.

Further the Committee considers that it would be of benefit if Commission staff were formally trained in cultural competency.

RECOMMENDATION 1: That Traditional Chinese Medicine be registered in New South Wales

RECOMMENDATION 2: That registration should be through protection of title

RECOMMENDATION 3: There should be three distinct divisions of the register: acupuncturist, Chinese herbal medicine practitioner and Chinese herbal dispenser

RECOMMENDATION 4: That the Traditional Chinese Medicine registration legislation should be as uniform as possible with the existing twelve New South Wales health registration Acts

RECOMMENDATION 5: That the New South Wales Traditional Chinese Medicine Registration Board be placed under the administration of the Health Professionals Registration Boards

RECOMMENDATION 6: That professional indemnity insurance be a compulsory registration requirement with the New South Wales Traditional Chinese Medicine Registration Board

RECOMMENDATION 7: That draft legislation be prepared and tabled for public comment

RECOMMENDATION 8: That all members of the New South Wales Traditional Chinese Medicine Board be appointed by the Governor on the recommendation of the Minister for Health

RECOMMENDATION 9: That at least one member of the New South Wales Traditional Chinese Medicine Board be able to communicate in English and either Mandarin and/or Cantonese

RECOMMENDATION 10: That the New South Wales Traditional Chinese Medicine Board consist of one registered doctor, one lawyer, one layperson, one NSW Health representative with the remaining members being Traditional Chinese Medicine practitioners

RECOMMENDATION 11: That doctors who perform acupuncture be allowed to use the title "medical acupuncturist" after meeting the relevant educational and skill requirements of the NSW Medical Board

RECOMMENDATION 12: That all health professional boards who endorse their practitioners to perform acupuncture have transparent educational and skill requirements that are developed in consultation with the New South Wales Traditional Chinese Medicine Board

RECOMMENDATION 13: That the Minister for Health require the Traditional Chinese Medicine Board to develop a code of conduct which practitioners must adhere to

RECOMMENDATION 14: That the model for complaint handling and disciplinary processes for Traditional Chinese Medicine practitioners should be co-regulatory involving the Board and the Health Care Complaints Commission in line with all other registered health professionals in New South Wales

RECOMMENDATION 15: That the staff of the Health Care Complaints Commission receive formal training in cultural competency

RECOMMENDATION 16: That the Health Care Complaints Commission employ the services of peer reviewers with qualifications in all three divisions of the Traditional Chinese Medicine register

RECOMMENDATION 17: That the Health Care Complaints Commission ensure that their provision of translating and interpreting services is in line with best practice

Chapter Four - Registration and Grand-Parenting Provisions

There were an estimated 4500 practitioners of Traditional Chinese Medicine in New South Wales, Victoria and Queensland in 1996.[28]

In the survey of the workforce involved in the practice of Traditional Chinese Medicine conducted as part of the *Towards a Safer Choice: The Practice of Traditional Chinese Medicine in Australia* report the majority of practitioners lived in New South Wales. Forty-six per cent of those surveyed from New South Wales indicated that Traditional Chinese Medicine was their primary practice.

The workforce to be impacted by registration is sizeable. Most practitioners who are currently practicing are valuable to the health care system and have a loyal client base.

It is also a very serious consideration to deny someone a livelihood from which he or she has been legally deriving income for many years, even decades.

The Committee is therefore not in favour of overly onerous registration and grand-parenting provisions during the initial registration phase. However, this must be balanced with a need to protect public safety and establish and maintain the standards of the profession.

The Standard for Registration

As in Victoria and most other jurisdictions, practitioners who complete an approved course of study should be eligible for registration at the successful conclusion of study.

The Chinese Medicine Registration Board of Victoria consider that*: A graduate of a Chinese medicine course approved by the Chinese Medicine Registration Board of Victoria is eligible for registration as an acupuncturist or Chinese herbal medicine practitioner in Victoria, without having to sit for an examination.*[29]

Bachelors Degrees in Traditional Chinese Medicine have been available in Australian Universities for approximately ten years.

All parties who submitted to the inquiry believed that a Bachelor's Degree or its equivalent, which included a component of clinical practice, should be the minimum requirement for immediate entry into the profession.

This is also in keeping with all other registered health professions.

[28] Alan Bensoussan and Stephen P Myers, 1996, Towards a Safer Choice – The Practice of Traditional Chinese Medicine in Australia, University of Western Sydney, page 23
[29] Chinese Medicine Registration Board website
http://www.cmrb.vic.gov.au/registration/approvedcoursesintro.html

Grand-parenting Provisions and Other Transitional Arrangements

One of the goals of the grand-parenting provisions, which were used in the Victorian model, was to have a *broad regulatory net and thereby incorporating more existing practitioners.*[30]

Victoria granted existing practitioners a three-year period to apply under categories created to acknowledge a) substantial period of practice without incident b) adequate qualifications c) professional competence. However, it was difficult to meet this deadline and the Chinese Medicine Registration Board of Victoria stated in their submission to the Committee that not all applications had been finalised following the closure of the grand-parenting period in December 2004 and that the task of processing the applications was an onerous and resource intensive task.[31]

This was backed up by the experience of Singapore and Hong Kong who both submitted to the Committee that the length of time involved in checking experience and qualifications should not be underestimated.

For instance, many qualifications from Chinese educational institutions are extremely difficult to verify. It is also often hard to assess the quality of the teaching or curriculum of the institution itself.

Years of experience may also be difficult to verify when the practitioner has run his or her practice from home or not kept proper taxation records.

Traditional Chinese Medicine is an ancient concept and the skills have often been handed down through families. While many universities and colleges now teach formal courses in Traditional Chinese Medicine it would be unfair to place onerous requirements for registration on practitioners who have been working for decades without any dissatisfied patients.

Mr Jingbiao Li of the Australian Traditional Medicine Association emphasised this point when he appeared before the Committee:

> *I wish to emphasise that Chinese medicine is not just a medicine, it is a culture, tradition and a heritage. The Australian Chinese community wish to keep it and pass it on to their younger generations. More important is the years of experience and the benefit of this medicine should be shared by people around the world, including Australia. The registration of Traditional Chinese Medicine will ensure this happening.*
>
> *The Victorian model on Traditional Chinese Medicine registration has been accepted by the majority of Traditional Chinese Medicine associations. However, there are arguments on Traditional Chinese Medicine grandfathering provisions. Please bear in mind the training for Traditional Chinese Medicine practitioners is quite different from the one for medical doctors. While we are focused on formal education and training I can tell you that a (Traditional Chinese Medicine) practitioner who has no formal education background might be a most experienced practitioner.*

[30] Submission number 20 from the Chinese Medicine Registration Board of Victoria
[31] Submission number 20 from the Chinese Medicine Registration Board of Victoria

Chinese medicine has a minimum 2,005 year history, but China had its first Traditional Chinese Medicine institute established only 50 years ago. I am not downgrading the importance of formal education, but I wish the registration board can look into how the Traditional Chinese Medicine practitioners were trained in the past and give sufficient and fair consideration on practice experience for who has to apply under the grandfathering provisions.

Full Exemption Based on Years of Practice

Mr Li went on to argue that a practitioner who has been practising in Australian full time for at least ten years without serious misconduct should be automatically eligible for registration.

Singapore and Hong Kong both granted full exemptions after 15 years of practice.

Under the Singaporean transitional arrangements the following exemptions were granted from the common qualifying examinations:

- Full exemption;
- Partial Exemption as a result of appraisal;
- No exemption – which meant that the practitioner had to complete a further training course.

Full exemption was granted on the basis of:

1. 15 years experience or greater; or

2. Approved Traditional Chinese Medicine qualifications from approved universities or the equivalent; or

3. 10 – 15 years experience plus other approved Traditional Chinese Medicine qualifications; or

4. 5 – 15 years experience plus approved local 5-year Traditional Chinese Medicine qualifications.

Partial exemption was granted on the basis of:

1. 10 – 15 years experience; or

2. 5 – 10 years experience plus other approved local Traditional Chinese Medicine qualifications; or

3. Greater than 5 years experience plus approved local 5 year Traditional Chinese Medicine qualifications.

No exemptions were granted to practitioners with:

1. Less than ten years experience only;

2. Less than 5 years experience plus other approved local Traditional Chinese Medicine qualifications only.

The Committee considers full exemption based solely on years of practice to be problematic and against the general interests of patient safety.

Firstly, the amount of years a practitioner must have been practicing is arbitrary. Secondly, this method is unfair and can be unsafe, as it places no emphasis on knowledge, skill or competency.

The Committee was told throughout this inquiry that there are few complaints made against Traditional Chinese Medicine practitioners and, aside from the important consideration of cultural barriers, this is probably due to the lack of a robust regulatory system to effectively deal with complaints. Consumers are usually aware that little can be done to sanction incompetent practitioners.

For example, the Health Care Complaints Commission has received only 17 complaints over a five-year period.

However City of Sydney Council estimated that only eighty per cent of acupuncturists whose premises they inspected on a six monthly basis *were doing the right thing and will continue to do the right thing.*

Currently councils are only required to register skin penetration premises under the *Public Health (Skin Penetration) Act 2000* (NSW) but not to inspect them. The Committee is unsure of how many councils are doing regular inspections under the Regulation. Without conducting a survey of all New South Wales local councils it is impossible to know how many acupuncturists are currently being regularly inspected and are complying with proper hygiene practices.

It would therefore be wrong to assume that all Traditional Chinese Medicine practitioners who have been practising for a certain period of time without attracting any formal adverse comment about their conduct are worthy of registration when there has not been any real scrutiny or regulation of their practice except by local councils. On the basis of the evidence presented to the Committee given by City of Sydney Council there appears to be grounds for some serious concern about the hygiene practices of a significant proportion of practitioners.

The Victorian Model

The Victorian Chinese Medicine Registration Board of Victoria provided grand-parenting provisions in Section 94 of their legislation. Unlike Singapore and Hong Kong they did not grant full exemptions based solely on years of practice.

In particular, section 94 of the Act states that the Board must be satisfied that the person:

1. *Is professionally competent (section 94(1)(b); AND*
2. *Has either:*
    (a) obtained a qualification or undergone training in Chinese herbal medicine, acupuncture or herbal dispensing that is considered by the Board to be adequate; or
    (b) obtained a qualification or undergone training that is not, by itself, considered to be adequate, but has also successfully undergone any further study, training or supervised practice required by the Board; or
    (c) carried on the practice of Chinese herbal medicine, acupuncture or herbal dispensing for a total of five years out of the last ten years prior to 1 January 2002; AND
3. *If required, has successfully completed an examination by the Board.*

In its submission to the Committee the Chinese Medicine Registration Board of Victoria observed that the task of grand parenting was laborious and difficult.

However, they also found that candidates for registration were either unable or extremely reluctant to sit examinations:

> *The CMRB advises that that preparing for grand parenting and assessing grand parenting applications is a task of immense proportions and the workload has been extremely high. CMRB has often contemplated that examination of every applicant would be administratively more efficient and possibly more effective.*
>
> *CMRB also found, however, that of those refused registration, who were offered the opportunity to sit examinations, very few took up this option. People who have last studied many years earlier are reluctant to expose themselves to examinations. There are also issues related to native languages and the ability to truly test knowledge via an examination conducted in a non-preferred language.*
>
> *Submitting the required evidence was an onerous task for many applicants. Further to this, the assessment of the evidence involved thousands of clarification letters and requests for further evidence. In some cases it was necessary to interview applicants or require them to sit an examination.*

The Chinese Medicine Registration Board of Victoria received 1254 registration applications at the end of the grand-parenting period. To date 147 applications have been refused and despite grand parenting having ended on 31 December 2004, not all grand-parenting applications have been finalised.

Of the refusals, sixty eight per cent have included a refusal in the division of Chinese herbal medicine. Twenty two per cent were refused in both divisions and forty five per cent in Chinese herbal medicine only.

The Board is of the view that many Australian courses have been acupuncture specific. There has also been a long-standing tradition whereby acupuncturists have prescribed Chinese herbs on the basis of a few subjects within an acupuncture course.

Victoria's experience of how labour intensive the grand-parenting process is mirrors the experience of other jurisdictions such as Hong Kong and Singapore. Further, all admit that in many cases it is almost impossible to check whether qualifications obtained overseas are authentic.

However, it is also a common problem that the majority of applicants that have been practising for long periods are reluctant to sit examinations and may be highly disadvantaged when English is not their first language or they have not formally studied for many years, if at all.

The Chinese Medicine Registration Board of Victoria also told the Committee that setting an examination paper was extremely problematic, resource intensive and unpopular. The Board had never had more than four applicants nominate to take an examination each time they ran it and the vast majority of practitioners who elected to take it failed. The latest examination has been cancelled as no one elected to sit for it at all.

The Board does consider that running the examination only in English may be unfair to some practitioners whose first language is not English. However, to set and mark the exam in Chinese would entail huge costs and the Board is unsure of the actual demand for a Chinese examination at this point.

Weighing up the lessons from other jurisdictions as to the huge workload and uncertainty of verifying documentation and work experience as well as the unpopularity of examinations, the Committee considers that it may be easier and fairer to approach grand-parenting provisions from a different angle while retaining the option to sit an exam for those who wish to do so.

Two Levels of Recognition

The Committee is attracted to the Hong Kong model of having two types of practitioners: listed and registered. This allows existing practitioners to keep practising while they are not registered. It also allows the Board to be aware of their existence and therefore have a complete record of all Traditional Chinese Medical practitioners in New South Wales.

If the Board is able to form an overall picture of what the demographic of its practitioners are in the initial stages, its forward planning will be assisted enormously.

The Committee considers that all Traditional Chinese Medicine practitioners should initially be required to list with the New South Wales Traditional Chinese Medicine Registration Board for a nominal fee within six months of applications being called for.

In order to do this practitioners will only be required to fill out a very basic form designed by the Board or set in the Regulations which will require they provide extremely fundamental information such as name, address of practice, age, years of practice, area of practice etc. without the need to provide any evidentiary documentation.

Those practitioners that are able to meet the registration criteria can then apply for registration when applications for registration are called for.

Practitioners who are listed and can demonstrate more than five years of practice within the last ten years should be offered the opportunity of either sitting an approved examination or undertaking either a part–time or full-time approved bridging course within a five year period set by the Board.

Bridging courses ideally should cover a mixture of communication skills, Western medicine and Traditional Chinese Medicine. Exemptions can be applied for in one or more of these areas as appropriate and optional subjects offered.

The recipients of bridging course are likely to be practitioners who need to financially support themselves while updating their training and skills in order to meet registration requirements.

Practitioners in rural and remote areas of New South Wales would be unfairly disadvantaged by a requirement to complete a bridging course, which can only be undertaken through face-to-face attendance at an educational institution. Current providers of qualifying courses in Traditional Chinese Medicine are all, with the exception of the University of New England, located in Sydney.

It is highly desirable that providers of the bridging course for practitioners of Traditional Chinese Medicine ensure that there is an option for part time study and distance education. This will ensure that practitioners are able to undertake a bridging course in a suitable mode while applying their studies to their chosen profession.

The Committee has spoken to both the University of Technology Sydney and the University of Western Sydney, and they consider that they are both well equipped to provide such a bridging course.

The Committee received advice from the University of Technology, Sydney (see appendix two) in relation to the bridging course for existing practitioners of Traditional Chinese Medicine. The advice suggests that the Australian Qualifications Framework could be used to assist in the grand-parenting process. The Australian Qualifications Framework has seven categories of applicants graded according to their qualifications.

A bridging course would be likely according to the advice provided by the University of Technology, Sydney to run for one to two years part time. Satisfactory completion of the course could result in a non-award qualification. The course would in all likelihood consist of two strands: acupuncture and Chinese herbal medicine. Four modules would include:

1. Upgrade and validation of Health Sciences (three subjects)
2. Upgrade and validation of Clinical Communication Skills (one subject)
3. Upgrade and validation of Chinese Medicine Knowledge and Skills (either acupuncture or Chinese herbal medicine or both- one subject each)
4. Upgrade and validation of the safe Clinical practice of acupuncture or Chinese herbal medicine (one subject)

Common to both strands are Health Sciences (three subjects), Clinical Communication Skills (one subject) and Safe Clinical Practice (one subject). Participants would then complete either the subject Acupuncture Review (for those practising acupuncture), or Chinese Herbal Medicine Review (for those practising Chinese herbal medicine).

The focus of the course would be on safe practice and a pass mark of seventy percent would be required for all subjects except for Health Science Review, which would require a pass mark of fifty percent.

The assessment strategies would include: examinations, essays, reports and practical examinations.

The mode of delivery would include face-to-face block teaching (two weekends a semester) as well as paper based distance or online delivery. All examinations would occur during the "block teaching" periods to ensure no misconduct occurs.

After successfully meeting all the requirements of the bridging course within the five year period, practitioners who are listed but unable to meet the formal registration criteria due to lack of academic qualifications can be deemed eligible for registration.

The length of practice that a practitioner should be forced to demonstrate to be eligible for registration under grand-parenting provisions differed greatly amongst the professional associations. Most recommended a minimum of ten years although it was admitted that this was arbitrary.

The Committee was told by Christopher Zasloski, Director, College of Traditional Chinese Medicine, Department of Health Sciences, University of Technology, Sydney that the research has shown that seven years of practice is probably ideal.

Obviously, all practitioners who have been practicing for five years of more will have passed the seven-year mark by the time the bridging course is complete.

The five-year practice standard is also in line with the Victorian criteria. The Committee did not wish to set a more onerous standard than Victoria without good evidence as to why the Victorian standard was not effective.

The Committee consider that this circumvents the arduous and lengthy task of assessing practitioners under grand-parenting provisions. As previously discussed, this process probably does not serve the practitioner, the registration board or the public well.

Under the assessment process practitioners are put through many years of uncertainty under what they may view as a very subjective process. Bridging courses are a "carrot" rather than a "stick" approach in that they encourage practitioners to upgrade their skills rather than force them to produce documentary evidence or undergo a lengthy assessment or difficult examination.

Grand-parenting through assessment does not ensure the authenticity of qualifications. In addition is not always possible to verify the competency of practitioners through assessment and this does not serve the public interest. Further, the resources of the Registration Board are tied up for years conducting a grand-parenting assessment process. These are important formative years. Freeing up the Board to focus on the foundations of effective regulation and professional competency would arguably better serve public safety and quality assurance.

Bridging courses also allow independent bodies such as universities to assess and examine practitioners (which is their area of expertise) rather than the Board. This alleviates any possible perceptions of conflict of interest.

Lastly it serves the public interest by ensuring that all practitioners who are registered have met a minimum standard.

The Public Health (Skin Penetration) Regulation 2000

The Committee was concerned by the evidence presented by the City of Sydney Council about the amount of Traditional Chinese Medicine practitioners following unsafe hygiene practices.

In its submission to the Committee the Council argued that:

> *The introduction of a registration system must have strong, clearly drafted and enforceable legislation supporting it. Self-regulation through industry guidelines will not work. Whilst the majority of current practitioners and those graduating from institutions such as UTS will comply with infection control requirements, the remaining minority, which in the City of Sydney represent between 10 – 20%, will continue to place the public at risk from blood-borne infections. There should be serious consideration given to a mandated role for local government to inspect practitioners across New South Wales. Current legislation only requires registration of skin penetration premises.*[32]

The Committee sees merit in this proposal.

The health professional Colleges conduct regular inspections of health practitioner premises. Until the regulatory system is robust enough to deal with inspections and all practitioners are at a standard where they should understand and follow good hygiene and other clinical practices the Committee believes that, in the interests of public safety the provisions of the *Public Health (Skin Penetration) Regulation* should remain applicable to acupuncturists.

Councils currently collect fees from practitioners for conducting inspections and have indicated to the Committee that they are happy to continue performing this task.

The Committee acknowledges that Councils in rural and remote areas do not have the resources of larger metropolitan councils. However, they will be able to rely on the assistance of their respective area health service in performing this function.

Further, as local councils believe that not all Traditional Chinese Medicine practitioners who are practising acupuncture in their local area register with them, the New South Wales Traditional Chinese Medicine Registration Board could assist this process by passing on details of Traditional Chinese Medicine practices to the relevant council once practitioners list themselves with the Board.

[32] Submission number 31 from the City of Sydney Council

Many of the frustrations faced by local councils and area health services about the lack of sanctions available to address concerns about Traditional Chinese Medicine practitioners standards will be solved by the creation of a Registration Board.

However, the Committee does believe that the penalty units for non-compliance with the *Public Health (Skin Penetration) Regulation* 2000 should be increased. The current maximum penalty is only 20 penalty units.

The Committee does note the recommendation of NSW Health that penalties be increased following the review of the *Public Health Act*.

City of Sydney Council also spoke about the need for basic training in Traditional Chinese Medicine practice in order for them to better identify potential problems:

> *Another issue is further training for Environmental Health Officers so they can effectively monitor all facets of Traditional Chinese Medicine Practice when registration comes into effect. Training is necessary in two areas: Firstly all (traditional Chinese medicine) procedures that are likely to present public health concerns if administered incorrectly. This would include recognition and familiarity of all equipment, machines and utensils that are in common use. Secondly: training is required in the proper storage and dispensation of unpackaged herbal medicines and also for the packaged complementary medicines. Knowledge of correct labelling and prohibited ingredients is essential.*[33]

The Committee considers that the Traditional Chinese Medicine Board could play an important role in providing assistance and training to local council Environmental Health Officers to allow them to more readily understand the equipment and practices of acupuncturists.

It would be useful for the Traditional Chinese Medicine Board to appoint a liaison officer to deal directly with Environmental Health Officer concerns about acupuncturists' premises that they inspect. This liaison officer may also be the most appropriate person to coordinate training for Environmental Health Officers.

RECOMMENDATION 18: That an approved course of study which is a Bachelors degree or equivalent be the requisite criteria to meet registration requirements to practice Traditional Chinese Medicine

RECOMMENDATION 19: That all Traditional Chinese Medicine practitioners be required to list with the New South Wales Traditional Chinese Medicine Registration Board as an initial step in the registration process and that this listing last for an initial period of five years

[33] Evidence provided at the Public Hearing for the Inquiry into Traditional Chinese Medicine 31 August 2005

RECOMMENDATION 20: Listed practitioners who have had five years full time practice experience within the last ten years but do not have the academic qualifications to meet the registration criteria should be eligible for registration after meeting the requirements of an approved bridging course or having passed an examination set by the New South Wales Traditional Chinese Medicine Registration Board

RECOMMENDATION 21: Acupuncturists should remain under the jurisdiction of the *Public Health (Skin Penetration) Regulation 2000* until such time as the New South Wales Traditional Chinese Medicine Registration Board has the ability to conduct clinical inspections

RECOMMENDATION 22: That a certificate from the relevant council verifying that an inspection of an acupuncturist's premises has been conducted and safe hygiene practices are being complied with be a registration requirement for all acupuncturists

RECOMMENDATION 23: That the New South Wales Traditional Chinese Medicine Registration Board be required to pass on details of listed practitioners and their clinics to the relevant council for inclusion on the council's register of premises kept in accordance with the *Public Health (Skin Penetration) Regulation 2000*

RECOMMENDATION 24: That New South Wales Health consider substantially increasing penalties for non compliance with hygiene practices regulated under the *Public Health (Skin Penetration) Regulation 2000* when the regulation is reviewed

RECOMMENDATION 25: That the New South Wales Traditional Chinese Medicine Registration Board appoint a community liaison officer to work with local councils and provide training in Traditional Chinese Medicine practices to assist them with their duties under the *Public Health (Skin Penetration) Regulation 2000*

Chapter Five – Feasibility of a National Registration Scheme

It was suggested to the Committee, largely by the Victorian Department of Human Services, that as registration of Traditional Chinese Medicine was its infancy in Australia it may be useful to look at a national scheme of registration rather than duplicating registration practices in each state with varying criteria as to categories of registration, professional disciplinary structures and processes and powers of boards.

In its Discussion Paper *Regulation of Health Professions in Victoria* the Department of Human Services stated:

> *The Department of Human Services supports the establishment of national structures and processes for the registration and regulation of practitioners and will continue to contribute to harmonisation efforts such as those being conducted via Australian Health Ministers' Advisory Council.*[34]

The idea of a National Registration model was almost universally denounced in the submissions received by the Committee. Reasons varied between dissatisfaction with some elements of the Victorian registration scheme to the fact there was no scheme of this type as yet in existence and so there was no evidence that it could work effectively.

For instance, the Australian Acupuncture and Chinese Medicine Associateion argued:

> *Regulation of health care practitioners is a State responsibility and is not a Commonwealth referred power in the Australian Constitution. The concept of a joint board with Victoria and other states raises constitutional and jurisdictional issues that have not been clarified or resolved for the already registered health professions.*

Other reasons against the establishment of a national board are:

- *complaints handling and issues related to advertising transgressions will still need to be addressed in New South Wales in accordance with New South Wales law;*
- *the development of sufficient relevant expertise in the Traditional Chinese Medicine profession in New South Wales in managing a statutory board, corporate governance, complaints handling would be severely limited due to the reduced number of practitioners from New South Wales that could serve on a national board, compared with a local board in New South Wales;*
- *the process of grand-parenting would need to be re-opened nationally each time a new State or Territory introduced legislation to register the Traditional Chinese Medicine profession;*

[34] Victorian Department of Human Services, October 2003, Regulation of the health professions in Victoria – A discussion paper, page 64

- *there would be minimal cost-savings as multi-location secretariats, with staffing, would still be necessary to serve legal, administrative, and record keeping requirements in each State;*

- *in the event of the collapse of a national board, there would not be an existing infrastructure with sufficient relevant expertise in New South Wales to fall back on;*

- *a national board at this stage is not supported by the profession.*

Furthermore, no other health profession has moved to a national board arrangement with the other states, and there is no precedent in place in relation to this approach.

It would be more appropriate to work out this type of arrangement for a national board in relation to the already registered professions where standards are fairly uniform nationally and the issue of grand-parenting is no longer a matter under consideration.

A National board for the Traditional Chinese Medicine profession should not be considered until all states and the Australian Capital Territory have introduced statutory registration of Traditional Chinese Medicine practitioners and the transitional grand-parenting period has passed.

As the priority is public health and safety, the establishment of a New South Wales Traditional Chinese Medicine registration board should proceed immediately while the more complex issues associated with a national board are carefully considered over a longer period.

Issues of uniformity amongst the States can be addressed via consultative processes and a single national course accreditation body for the profession (ACCME). Issues related to standards and uniformity are addressed elsewhere in this submission.

In summary, unless and until the more established health professions with long-standing agreed national standards have moved to a national board arrangement and the attendant legal and procedural issues have been resolved, it would be premature and unwise to experiment on this approach in relation to Traditional Chinese Medicine."[35]

Similarly, the New South Wales Nurses Association stated that they:

> *... would prefer a state model similar to that of the registration and enrolment of registered nurses and midwives and enrolled nurses by the Nursing and Midwifery Board (NMB) New South Wales. In our view it would be too difficult and cumbersome to administer a national registration system.*[36]

A number of stakeholders who submitted to the Committee argued that Traditional Chinese Medicine should not be a "guinea pig" when no other health professional registration system operates nationally.

[35] Submission number 29 from the Australian Acupuncture and Chinese Medicine Association
[36] Submission number 3 from the NSW Nurses' Association

The Victorian Department of Human Services argued in their submission to the Committee that:

> *Initiatives in New South Wales and Western Australia to implement statutory registration for Chinese medicine profession provide an opportunity to trial an alternative model for regulation of this profession, one that might establish a useful precedent for the other mainstream regulated professions. The Professional Standards Council, which operates under similar legislation passed in New South Wales, Western Australia and Victoria, provides a useful precedent for how mirror legislation and an intergovernmental agreement can be used to achieve a single administrative body that regulates across multiple jurisdictions. The key features of this model area as follows:*
>
> - *Two (or more) jurisdictions cooperate to develop a template legislative bill that is then enacted (with or without modifications) by each participating jurisdiction. Once enacted, the mirror legislation provides a framework for the administration of the state based legislative schemes in a nationally (or bilaterally) consistent manner.*
>
> - *Jurisdictions then agree to a common administrative structure by: ensuring the same members are appointed to each state based authority, and establishing a common secretariat to provide resources and administrative support to each state based authority.*
>
> - *An intergovernmental agreement, although not legally binding, sets out the terms of the above agreement, including such matters as:*
>
>   1. *Membership of the individual authorities and any transition arrangements for membership as additional jurisdictions come on stream with their legislation*
>   2. *Nomination, appointment and removal processes for authority members, office bearers, remuneration*
>   3. *Funding arrangements for the common secretariat and fee setting arrangements, transition funding*
>   4. *Ministerial arrangements for consultation and notification, exercise of various administrative powers under the relevant Act, and arrangements for amending legislation or varying the agreement where it may have a significant effect on the cooperative scheme*
>   5. *Withdrawal from the agreement*

As occurred with the Professional Standards Council that was established first in New South Wales, then in Western Australia and Victoria, it is possible for the arrangement to be initiated bilaterally, for example between New South Wales and Victoria, with other jurisdictions coming on stream as they pass their legislation and establish their authority. Some of the pre-conditions for the model to operate effectively are:

- *the legislation enacted in each participating jurisdiction must be as similar as possible, to minimise the challenges for the members of the regulatory authorities in administering multiple Acts, and*

- *the same individuals must be appointed to each of the state authorities.*[37]

[37] Submission number 32 from the Victorian Department of Human Services

Professional Standards Council Model

The Committee met with an officer of the Professional Standards Council and considered the system in some detail. The Professional Standards Council operates nationally and promotes self-regulation of professions by offering occupational associations limited civil liability in exchange for meeting mandatory requirements. These requirements relate mainly to improving professional standards and protecting consumers. The basic obligations of occupational associations are:

Disclosure
Occupational Associations must educate scheme members as to their obligations regarding disclosure and must report to the Council any non-compliance with the disclosure policy as well as the unauthorised use of the disclosure statement.

Use of Cover of Excellence Trade Mark Symbol
The Council authorises members of schemes to use the trademark under license, a condition of which is that it is used within the terms of the license (including that the trademark is displayed in accordance with the style guide). Occupational Associations must monitor compliance with the trademark requirements and report non-compliance to the Council.

Payment of Annual Fees
Occupational Associations are required to pay Annual fees to the Council and provide an annual independent audit certificate. The audit certificate assists the Council in monitoring the accuracy of payments.

Risk Management Reports and Risk Management Plans
Occupational Associations are required to report to the Council annually on their risk management activities. This takes the form of a Risk Management Report, which is due by 31 March each year. As well as the report on the previous year, Associations are also required to provide a Risk Management Plan, which details their risk management activities for the coming 12 months.[38]

In June 2003 a cover of excellence scheme in New South Wales covered more than seventeen thousand professionals, among the current schemes in New South Wales are the:

Engineers Australia Scheme
Accountants Professional Standards Scheme
Barristers Professional Standards Scheme
Institute of Consulting Valuers Scheme
Investigative and Remedial Engineers Professional Standards Scheme
National Institute of Accountants Scheme
Professional Engineers Scheme
Professional Surveyors Scheme

[38] Professional Standards Council website http://www.lawlink.nsw.gov.au/lawlink/professional_standards_council/psc_ll.nsf/pages/PSC_aboutschemes_obligations_oa

Solicitors Professional Standards Scheme[39]
The incentive for associations to join the scheme is capped professional negligence liability. However, capping of damages for bodily injury is not provided for under the *Professional Standards Act 1994* making it largely unsuitable for health associations.

The most important point to make is that the Professional Standards Council is not a regulator. The Council's Board does not act as a National Registration Board.

The agencies underneath the Council regulate their professional members. The Council merely approves the risk management plans and professional disciplinary systems submitted by the associations and monitors statistics and trends provided by the associations.

While the Professional Standards Council is an illustration of the states and territories cooperating to create a national umbrella organisation to approve and monitor professional standards it is not an example of a National Registration Scheme in its current form.

Mirror Legislation

The report from the Expert Committee on Complementary Medicines in the Health System to the Parliamentary Secretary to the Minister for Health and Ageing entitled *Complementary Medicines in the Australian Health System* contains support for the Australian Health Ministers Advisory Council resolution supporting nationally consistent regulatory arrangements and the adoption of model legislation developed by one jurisdiction in other jurisdictions:

> *All jurisdictions should introduce legislation to regulate Traditional Chinese Medicine practitioners, based on the Victorian legislation, as soon as possible.*[40]

In the Government response to this report the Therapeutic Goods Administration stated that this is a state and territory matter, which will be brought to the attention of the states and territories through the Australian Health Ministers Conference.

Achieving consistency in Australia in the standards that are applied in education and training and the practice of Traditional Chinese Medicine is highly desirable.

The pioneering work of Victoria can be capitalised on nationally by aiming for consistency of standards, where appropriate, amongst all individual states and territories.

The differences in complaints handling legislation in each state and territory are an impediment to the adoption of mirror legislation.

[39] Professional Standards Council website http://www.agd.nsw.gov.au/lawlink/professional_standards_council/psc_ll.nsf/pages/PSC_about_schemes
[40] Expert Committee on Complementary Medicines in the Health System, September 2003, Report to the Parliamentary Secretary to the Minister for Health and Ageing – Complementary Medicines in the Australian Health System, page 130

The New South Wales Health Care Complaints Commission state in their submission that:

> *At present there are no National registration boards, with all boards being state based. The challenge of a National approach is that each state has different complaints handling legislation.*[41]

The administrative burden and the delay that would be caused to the introduction of registration in New South Wales is significant enough to warrant the establishment of a registration board in New South Wales and to re-visit the issue of national registration in cooperation with other registration boards at a later date.

The risk to public and patient safety caused by a delay in the introduction of registration in New South Wales outweighs the benefits of national registration which can be largely be achieved through mutual recognition and consistency of standards.

The Committee recommends that the New South Wales Traditional Chinese Medicine Registration Board seek to achieve consistency of standards with the Chinese Medicine Registration Board of Victoria and that mutual recognition provisions are included in the registration scheme in New South Wales.

The Victorian Act currently makes provision for recognition of registered practitioners in other Australian state and territory jurisdictions upon the implementation of their Traditional Chinese Medicine registration schemes.

RECOMMENDATION 26: That the New South Wales Traditional Chinese Medicine Registration Board, where possible, work to achieve consistency of standards across Australia for registration of Traditional Chinese Medicine practitioners

[41] Submission number 27 from the New South Wales Health Care Complaints Commission

Chapter Six – Resource Issues

The degree of resources required to establish a registration board in New South Wales can only be estimated based on the experience of Victoria.

The Department of Human Services in Victoria provided the Victorian Chinese Medicine Registration Board with seed funding of $154,545.55. The total expenses for the first six months of operation were $129, 489.06 at December 2000. It was not until December of 2001 that the monthly net income exceeded costs.

For the six months prior to the commencement of registration the top five costs of operation in descending order are as follows:

1. Staffing
2. Computer
3. Rent
4. Sitting fees for board members
5. Website development[42]

In their submission to the Committee the Victorian Chinese Medicine Registration Board outlined the following hurdles, which it considered as unique to Chinese medicine in Australia:

- Running consultations (and provisions of some written materials) in two languages;
- A high proportion of non-Australian qualifications to assess;
- A significant percentage of registration applications from non-Victorians;
- Addressing the English proficiency requirements;
- Post grand-parenting application from non-Victorian Australians who are not eligible for general registration, do not fit the criteria for specific registration and cannot utilise the provisions of the *Mutual Recognition Act 1992*;
- Resource intensity of assessing grand-parenting applications;
- Resource intensity of developing registration examinations;
- Resource intensity of assessing courses for approval;
- Dealing with potentially false qualifications from overseas locations.

[42] Information provided by the Chinese Medicine Registration Board of Victoria

Without even approximate figures on how many Traditional Chinese Medicine Practitioners will register in New South Wales, the Committee looked at the current Victoria figure of 818 practitioners. A higher number of applications are expected to be made in New South Wales than the number that were made in Victoria because of the higher proportion of practitioners reported to be practising in New South Wales.

The Committee therefore considered that the ultimate number in New South Wales may be somewhere near the membership of the New South Wales Chiropractors Board which currently has 1306 practitioners registered as at the 30 June 2005.

The New South Wales Chiropractors Registration Board charge the following registration fees:[43]

	Amount $
Application for registration	270
Application for temporary registration	270
Annual registration	250
Annual registration where the chiropractor was registered as an chiropractor and osteopath under the Chiropractors and Osteopaths Act 1991 immediately before its repeal, and the chiropractor is also registered as a osteopath under the Osteopaths Act 2001 (ie for dual registration).	200
Re-registration application fee for previously registered chiropractors.	
$250.00 if less than three months has elapsed since name was removed from the Register.	250
$520.00 if more than three months has elapsed and less than twelve months has elapsed since name was removed from the Register.	520
$270.00 if more than one year has elapsed since name was removed from the Register	270
Re-registration application for previously registered chiropractors who held joint registration as a chiropractor and as an osteopath at 1 August 2002.	
$200.00 if less than three months has elapsed since your name was removed from the Register.	200
$470.00 if more than three months has elapsed and less than twelve months has elapsed since your name was removed from the Register.	470
$270.00 if more than one year has elapsed since your name was removed from the Register.	270
Application for assessment to sit the examination	250
Application for Examination	1500
Application for Duplicate certificate	20
Application for recording of additional information in the register	20
Inspection of the Register	20

[43] New South Wales Chiropractors Registration Board Website http://www.chiroreg.health.nsw.gov.au/hprb/chiro_web/fees1.htm

This compares with the slightly higher registration fees charged by the Chinese Medicine Registration Board of Victoria for 2005. The Victorian Board have reduced the 2006 registration fees from those shown here by between $10-30:[44]

Registration - **Single Division** - Acupuncture **OR** Chinese Herbal Medicine **OR** Chinese Herbal Dispensing	$430.00
Registration fee - **two Divisions** - **ANY TWO** of Acupuncture **OR** Chinese Herbal Medicine **OR** Chinese Herbal Dispensing	$495.00
Registration fee - **three Divisions** - Acupuncture **AND** Chinese Herbal Medicine **AND** Chinese Herbal Dispensing	$560.00
New Graduates Registration - **Single Division** - Acupuncture **OR** Chinese Herbal Medicine **OR** Chinese Herbal Dispensing	$330.00
Half-year from 1 January 2005 (New Graduates Only)	$165.00
New Graduates Registration - **two Divisions** - **ANY TWO** of Acupuncture **OR** Chinese Herbal Medicine **OR** Chinese Herbal Dispensing	$395.00
Half-year from 1 January 2005 (New Graduates Only)	$198.00
New Graduates Registration - **three Divisions** - Acupuncture **AND** Chinese Herbal Medicine **AND** Chinese Herbal Dispensing	$460.00
Half-year from 1 January 2005 (New Graduates Only)	$230.00

The decrease in the registration fees charged by the Chinese Medicine Registration Board of Victoria is indicative of the resource intensiveness of the establishment period for registration boards.

A bilingual public awareness campaign on the introduction of registration for practitioners of Traditional Chinese Medicine and on the complaints handling process would enhance the profile of both the Traditional Chinese Medicine Board and the Health Care Complaints Commission in the community. Such campaigns are imperative to the realisation of consumer rights and informed decision-making on the part of consumers. The accountability of practitioners is enhanced through greater public awareness of registration as is the level of consumer protection.

It is a recommendation of the Committee that seed funding be provided by NSW Health for the establishment of a registration board for Traditional Chinese Medicine in New South Wales.

[44] Chinese Medicine Registration Board of Victoria Website http://www.cmrb.vic.gov.au/registration/applandregfees.html

RECOMMENDATION 27: That NSW Health, the Traditional Chines Medicine Board and the Health Care Complaints Commission jointly undertake a bilingual public awareness campaign on the introduction of registration for practitioners of Traditional Chinese Medicine and on the roles of the relevant agencies in handling complaints

RECOMMENDATION 28: That the New South Wales Traditional Chinese Medicine Registration Board receive seed funding from NSW Health in order to establish itself

Chapter Seven – Accreditation of Courses

Accreditation relates to providers of continuing professional education and educational institutions teaching students of Traditional Chinese Medicine. In the absence of a College of Traditional Chinese Medicine Practitioners, in Victoria the Chinese Medicine Registration Board has been given powers to accredit educational institutions to give them status as approved providers of qualifications, which can be used by graduates for registration.
The following extract reveals the main Guidelines for the Approval of Courses of Study in Chinese Medicine as a Qualification for Registration used by the Victorian Board:

5.3 Course Documentation
Policies, procedures and course information are kept up-to-date and are provided to all students. This includes information on:
• the aims and objectives of the course;
• assessment requirements and methods;
• requirements for progression and graduation;
• appeal processes;
• academic review processes; and
• costs and expenses.

5.4 Unit Documentation
Documented specific learning objectives are available for each unit of instruction.

5.5 Teaching and Learning Methods
The course utilises a range of teaching and learning methods that are sufficient to:
• meet the learning styles of the students; and
• achieve the learning objectives of the course.

5.6 Assessment
The overall aim of the assessment procedures and methods is to ensure that graduates have attained a sufficient range and level of knowledge and skills to perform as professional practitioners of Chinese medicine.

(a) ***Assessment Methods***
The standard of performance expected of students is clearly specified in the form of specific learning outcomes for each unit of study. The methods of assessment and assessment tasks are designed to measure these learning outcomes and provide feedback to students to enhance their learning.

The course employs a range of assessment methods that accommodate the various learning styles of students. Assessment is performed at regular intervals throughout the course and forms the basis for student progress.

(b) ***Essential Components***
Regular assessment is performed of all units of study including clinical units.
Clinical assessment includes the demonstration of practical skills and incorporates all aspects of the clinical context, including CM diagnostic skills, treatment design and administration of point prescriptions or herbal formulae. A minimum attendance requirement

is specified for practical and clinical training and is required for successful completion of the course. A final practical clinical examination is conducted that assesses clinical competence prior to graduation.

(c) ***Records***
Adequate records of progressive and final assessments are maintained. The assessment tools used for each component of the assessment, and sample completed records of high, medium, low pass and failed performance students, are archived.

5.7. Student Selection Criteria

(a) ***Equal Opportunity***
There is equal opportunity for entry into the course with respect to race, creed,colour, national origin, gender, age, disability, socio-economic and marital status.

(b) ***Entry Pre-requisites***
The academic pre-requisites, and other specific criteria for entry to the course, are clearly stated and are compatible with the requirements of the course.

The institutional support for, and management of, the course is a key determinant of its quality and effective delivery. The criteria that the Board will apply in assessing whether a course of study is approved are as follows:

6.1 Institutional Support
The institution demonstrates support for Chinese medicine, both as an academic and professional discipline.

6.2. Organisational Structure
There is a clearly defined organisational structure for the academic governance and management of the course.

6.3. Course Development
The institution has in place comprehensive policies and procedures for new course development and the revision of existing courses.

6.4. Support for Research
The course demonstrates a commitment to research through the documented philosophy of the course, and through support for participation of staff and students in research activities related to Chinese medicine.

6.5. Review and Evaluation
• Policies and Procedures – there are policies and procedures for continuous quality improvement of the course, including periodic review of course goals, content, relevance and quality.
• Evaluative Methods – the course administrators use a range of evaluative methods to monitor and improve the quality of the educational process.
• Assessment Methods – there are regular reviews of assessment methods that consider student load and the emphasis, balance and appropriateness of assessment.

• Student Satisfaction – student satisfaction with the course is assessed on a regular basis, and there are established structures and processes for students to provide input into the design and delivery of the course.
• Staff Performance – there is ongoing evaluation of the performance of the academic and clinical staff that includes the assessment of their teaching ability, scholarly activity, administrative competence and student satisfaction.
• Professional Development – there is an organisational structure that provides support and resources for professional development programs for staff linked to evaluation of performance.

The resources and physical environment provided within the course facilitate effective delivery of the course and the achievement of learning outcomes.

The criteria that the Board will apply in assessing whether a course of study is approved are as follows:

7.1. Funding
The course has adequate funding available per student to provide sufficient numbers of staff and resources required to achieve the goals of the course.

7.2. Work Environment
The institution's policies and procedures (including its occupational health and safety policies and procedures) ensure a safe working environment that is free from sexual or other harassment.

7.3. Student Support
• There is adequate time and access to academic and clinical staff for student consultation on progress, course content and assessment.
• Students have ready access to student support services to facilitate their progressive completion of the course.
• There are adequate facilities and resources to support students with special needs.

7.4. Staff Qualifications and Skills
• Staffing profile – the number of academic, clinical and administrative staff, and their qualifications and experience, are sufficient to deliver the course. This includes sufficient diversity of areas of expertise and academic qualifications in Chinese medicine and related sciences, and in curriculum design, development and delivery.
• Individual skills and qualifications – each academic staff member has documented qualifications and expertise, demonstrated effectiveness in teaching and evaluation of students, and/or a record of involvement in scholarly research and professional activities consistent with their teaching responsibilities.

7.5. Teaching Facilities
• Physical environment – there is sufficient quantity and quality of classrooms, laboratories, offices and space for students, academic and general staff to provide an environment conducive to learning and research.
• Equipment – students and staff have access to sufficient equipment and consumables to provide the means for effective learning and research.

• Library – students and staff have ready access to a well-maintained and catalogued library of appropriate media and holdings, which are current and sufficient in number and breadth to support the content of the curriculum and meet the needs of the course.

7.6. Clinical Facilities and Placements

There are adequate and appropriate facilities and equipment for the conduct of a primary contact health care practice. This includes (but is not limited to):
• all consultation rooms have easy access; provide sufficient patient privacy; have ample lighting and ventilation; and have practical accessibility to hand basins and toilets;
• all diagnostic and therapeutic equipment meets infection control standards and is in sound operating condition;
• all materials and equipment, required for procedures performed in the clinic, are available and accessible; and
• all occupational health and safety and infection control requirements are met.

There is a sufficient number and quality of relevant clinical placements and educators available to meet the needs of the students enrolled in the course.[45]

The guidelines recommend that acupuncturists and Chinese herbalists be taught at a Bachelors degree level in a program of study delivered in face-to-face mode and conducted by or closely audited by a degree-granting educational institution.

For a student undertaking a program in either acupuncture or Chinese herbal medicine, the nominal duration of the program is four academic years (eight semesters) and approximately 2,500 hours.

For a student undertaking a double modality course, that is acupuncture and Chinese herbal medicine, the recommended nominal duration is between four and five academic years (eight to ten semesters) and approximately 3,300 hours.

The Guidelines recommend that the essential components of the qualifying course are:

> *a) study of at least either acupuncture-moxibustion or Chinese herbal medicine, or both, which will include the principles and philosophy of the modality, an exploration of its place in health care, a study of its limitations and when referral to other forms of treatment is required*
>
> *b) a component of clinical education and supervised clinical practice*
>
> *c) study of biomedical sciences at a standard comparable with a bachelor's degree leading to professional practice in other primary health care and to the level required to ensure safe and competent practice*
>
> *d) a component in areas related to professional ethics, practitioner/patient relations*

[45] Chinese Medicine Registration Board, August 2002, Guidelines for the Approval of Courses for Study in Chinese Medicine as a Qualification for Registration, page 12-16

The Guidelines from the Australian Traditional Medicine Society recommend that: 30-35% be allocated to Traditional Chinese Medicine principles and philosophy, 25-35% to practical studies and clinical practicum, 25-35% to biomedical sciences and 7.5-10% to ethics and professional issues.[46]

The educational standards in Traditional Chinese Medicine, is an area in which it is possible to achieve nationally consistent standards. In light of this the Committee endorse the standards set by the Chinese Medicine Registration Board of Victoria in the area of qualifications for registration with one exception in relation to the weighting given to Western medicine in courses.

The Chinese Medicine Registration Board of Victoria has five minimum standards for qualifications relating to:

Standard 1 – graduate knowledge, skills and attributes;
Standard 2 – course structure and operation;
Standard 3 – course management;
Standard 4 – resources and physical environment; and
Standard 5 – curriculum

The guiding principle behind the standards is: "To receive approval from the Board, a course must provide a level of educational effectiveness, integrity, and quality that consistently produces graduates who can safely serve the public as registered acupuncturists and/or Chinese herbal medicine practitioners."[47]

To date the Chinese Medicine Registration Board of Victoria has approved the following courses:

- Australian College of Natural Medicine – Bachelor of Health Science (acupuncture)
- Australian College of Natural Medicine – Advanced Diploma of Acupuncture
- RMIT University - Bachelor of Applied Science (Chinese Medicine) & Bachelor of Applied Science (Human Biology)
- RMIT University – Master of Applied Science (Acupuncture)
- RMIT University – Master of Applied Science (Chinese Herbal Medicine)
- RMIT University – Bachelor of Health Science (Chinese Herbal Medicine)
- RMIT University - Bachelor of Applied Science (Human Biology-Chinese Medicine major) and Bachelor of Applied Science (Chinese Medicine)
- RMIT University - Bachelor of Applied Science (Chinese Medicine)
- Southern School of Natural Therapy – Advanced Diploma of Traditional Chinese Medicine
- Southern School of Natural Therapy – Bachelor of Health Science – Chinese Medicine

[46] Raymond Khoury, 1999, Draft Traditional Chinese Medicine Educational Standards, National Academic Standards Committee, Australian Traditional Medicine Society
[47] Guidelines for the Approval of Courses of Study in Chinese Medicine as a Qualification for Registration, August 2002, Chinese Medicine Registration Board Victoria, page 11

Applications can be granted on an interim basis and can also be refused. Three courses have been refused. [48]

Several professional associations have expressed concern about the adequacy of training of practitioners who have completed one of the currently offered courses in Traditional Chinese Medicine at a University level in Australia. The concern relates to the diagnostic skills of practitioners and the suitability of the skill level to the primary care of undifferentiated illness.[49]

If as Professor Bensoussan stated at a Public Hearing on 31 August 2005:

> *I think once they have had that experience (using complementary medicine), then we find that a number of patients will go to a Traditional Chinese Medicine practitioner first without cross checking with their medical practitioner. I think that can happen and it does happen.*[50]

Then we can anticipate that with an increase in the proportion of patients who use Traditional Chinese Medicine as their first mode of treatment for illness there will be a corresponding increase in the risk of inadequate diagnosis or misdiagnosis by a practitioner of Traditional Chinese Medicine. There is also the potential for the early detection of potentially life threatening and serious health conditions to go undetected and potentially mistreated.

The following examples were offered in the submission from the Australian Medical Acupuncture College of differing diagnosis between Traditional Chinese Medicine and Western medicine:

1. *Rectal bleeding may be a symptom of bowel cancer, however, in Traditional Chinese Medicine this may be a symptom of "spleen deficiency" and may be treated with herbs and acupuncture*
2. *Irregular vaginal bleeding may be a symptom of cervical or uterine cancer but is "deficiency" syndrome in Traditional Chinese Medicine treated with herbs and acupuncture*
3. *Severe headaches may be a brain tumour but in Traditional Chinese Medicine may be described as "liver fire"*
4. *Headache at the side of the head may be caused by "obstruction of Qi in the meridians in Traditional Chinese Medicine but may be due to Temporal Arteritis which requires urgent diagnosis and treatment to prevent the onset of blindness*

The increasing popularity of Traditional Chinese Medicine in the community[51] means that practitioners of Traditional Chinese Medicine need to be adequately trained in detecting potentially serious health conditions and able to appropriately refer them on to other health services for thorough diagnosis and potential treatment.

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[48] List of approved courses, Chinese Medicine Registration Board Victoria Website http://www.cmrb.vic.gov.au/registration/approvedcourses.html
[49] Submission number 10 from the Australian Medical Acupuncture College
[50] Evidence provided at the Public Hearing for the Inquiry into Traditional Chinese Medicine 31 August 2005
[51] New South Wales Department of Health, Regulation of Complementary Health Practitioners – Discussion Paper, September 2002, page 1

The more patients who choose to see a practitioner of Traditional Chinese Medicine as the first health professional they see in relation to a health condition the more important the diagnostic skills of practitioners of Traditional Chinese Medicine become.

Research suggests that:

"... seven out of ten patients had consulted another health care professional before starting Traditional Chinese Medicine treatment, and in six of the seven, this was a medical practitioner."[52]

It is worthwhile looking at the basic details of professional entry-level courses for the practice of traditional Chinese Medicine in New South Wales below:

Name of Institution	**Name of Course**	**Entry Requirements**	**Duration**
University of New England	Bachelor of Health Science (Traditional Chinese Medicine)	Qualification at diploma or advanced diploma level in Traditional Chinese Medicine or entry via the access program and full membership of an appropriate professional association.[53]	Two years part time
University of Technology Sydney	Bachelor of Health Sciences in Traditional Chinese Medicine	University Admission Index of 90.6 in 2005 applied for school leaver applicants. Does not apply to mature age applicants.[54]	Four years full time
University of Western Sydney	Bachelor of Applied Science (Traditional Chinese Medicine	University Admission Index of 70 in 2005 applied for school leaver applicants, the average University Admission Index for previous years has been in the high 70's or low 80's.[55]	Four years full time
Sydney Institute of Traditional Chinese Medicine	Advanced Diploma of Traditional Chinese Medicine	Students must be over 18 years of age and have a NSW higher school certificate or interstate equivalent. Applicants are required to sit for an interview. Mature age and international students have different entry requirements.[56]	2592 hours either full time or part time

[52] Alan Bensoussan and Stephen P Myers, 1996, Towards a Safer Choice – The Practice of Traditional Chinese Medicine in Australia, University of Western Sydney, page 131
[53] Advice provided by Dr Jeanne Madison, Head of School, University of New England, 28/9/05
[54] Advice provided by Mr Peter Meier, Lecturer, University of Technology Sydney, 19/8/05
[55] Advice provided by Dr Dennis Chang, Senior Lecturer, University of Western Sydney, 24/8/05
[56] Advice provided by Igor Bilek, Administrator, Sydney Institute of Traditional Chinese Medicine 20/9/05

Number, nature and name of subjects by course in Western Medicine

Name of Course	**Provider**	**Subjects in Western Medicine**	**Compulsory or Voluntary**	**Credit points earned against total credit points needed**
Bachelor of Health Science (Traditional Chinese Medicine)	University of New England	Homeostasis: Dynamic Balance of Health	Compulsory	6/48
		Cellular and Molecular Mechanisms of Disease	Compulsory	6/48
		Special topic in human health bioscience	Optional and by special entry only	6/48
Bachelor of Health Sciences in Traditional Chinese Medicine	University of Technology, Sydney	Health Sciences in Traditional Chinese Medicine 1	Compulsory	6/192
		Health Sciences in Traditional Chinese Medicine 2	Compulsory	6/192
		Health Science for TCM 3	Compulsory	6/192
		Health Science for TCM 4	Compulsory	6/192
		Clinical Features of Disease	Compulsory	6/192
		Point Location and Acupuncture Anatomy	Compulsory	3/192
		Pharmacology of Chinese Herbal Medicine	Compulsory	6/192
		Disease States 1	Compulsory	3/192
		Disease States 2[57]	Compulsory	3/192

[57] Advice provided by Mr Peter Meier, Lecturer, University of Technology Sydney, 19/8/05

Bachelor of Applied Science (Traditional Chinese Medicine)	University of Western Sydney	Human Medical Sciences 1 Human Medical Sciences 2 Clinical Pharmacology and Microbiology Clinical Diagnosis Clinical Neurosciences Pathophysiology 1 Pathophysiology 2[58]	Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory	10/320 10/320 10/320 10/320 10/320 10/320
Advanced Diploma of Traditional Chinese Medicine	Sydney Institute of Traditional Chinese Medicine	Anatomy and Histology (a) Anatomy and Histology (b) Physiology and Biochemistry (a) Physiology and Biochemistry (b) Pathology and Microbiology (a) Pathology and Microbiology (b) Clinical Diagnosis (a) Clinical Diagnosis (b) Pharmacology Research Methods Research Project[59]	Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory Compulsory	In total the Modern Medical Stream makes up 11 modules of the total number of 38 modules in the course (The course also contains 2 modules CPI -1 & 2 which deal with the ethical and legal obligations of TCM practitioners within the Australian health care system.)

[58] Advice provided by Dr Dennis Chang, Senior Lecturer, University of Western Sydney, 24/8/05
[59] Advice provided by Igor Bilek, Administrator, Sydney Institute of Traditional Chinese Medicine 20/9/05

Based on the information provided to the Committee about the approaches adopted in China, Hong Kong and Taiwan to this issue (all require a minimum of three years training in Western medicine) it is recommended that the requirement be set for professional entry level courses used to apply for registration increase the component of study in Western medicine.

This recommendation represents a departure from the Victorian approach:

CMRB Course Approval Guidelines: August 2002 Relative Weighting
An approved course will demonstrate inclusion of all core curriculum components. The relative proportions of these components will vary according to the scope of the course. The following is a guide to the relative weighting of curriculum components for undergraduate courses.

Essential Curriculum Components Percentage of Course

Acupuncture/Chinese herbal medicine theory 30 - 45%
Clinical skills and practicum/internship 25 - 35%
Basic and biomedical sciences 20 - 35%
Professional and practice issues 5 - 15%

Clinical studies in Chinese medicine should include a wide range of clinical conditions that may be treated using acupuncture and/or Chinese herbal medicine. Areas of study should include (but not be limited to):

- *internal medicine;*
- *gynaecology;*
- *paediatrics;*
- *traumatology;*
- *external medicine and dermatology; and*
- *ear, eye, nose and throat disorders.*

Within these areas of clinical study emphasis should be placed upon the kinds of conditions typically encountered in Australia. The following skills should also be addressed:

- *competence in differential diagnosis and clinical decision-making;*
- *communication and counselling skills to ensure effective patient relations;*
- *effective record keeping, labeling and provision of instructions; and*
- *awareness of the viewpoints of clinical biomedicine and complementary / alternative therapies, and of the need to recommend appropriate referral.*

Approved courses should include sufficient Chinese medicine studies for graduates to meet the requirements specified in this document for the safe practice of acupuncture and/or Chinese herbal medicine.

The viewpoints of modern biomedicine can be integrated into these studies, and the results of modern clinical and experimental research should be included where appropriate.

Standards for Course Approval
However, in approved courses, this should not be at the expense of a thorough grounding in the Chinese medicine theoretical paradigm. Chinese medicine theory and Chinese medicine clinical studies and clinical training should comprise the primary component of the course.

Biomedical and Other Sciences
An approved course should include a substantial component of study in biomedical and other sciences. These should be relevant to Chinese medicine practice and should aim to expand the knowledge and develop skills of graduates in relation to:
- *effective patient evaluation, management and referral;*
- *development of critical thinking and clinical judgment;*
- *critical appraisal of research;*
- *the development of research skills;*
- *communication with other health care professionals; and*
- *integration of the practice of Chinese medicine into the Australian health care system.*

Areas of study included in the bioscience components may be of a generic nature. However, they should be adapted to ensure that their content and focus addresses the needs of students whose primary area of study is Chinese medicine. An alternative approach is the provision of a science component that is purpose designed to be pertinent to the clinical practice of Chinese medicine in an Australian context. These components would usually include (but not be limited to) relevant aspects of: biology; chemistry and biochemistry; anatomy; physiology; microbiology; pathology; plant science; and pharmacology."[60]

Chris Zaslawski, Director of the College of Traditional Chinese Medicine, University of Technology, Sydney told the Committee that he agreed that the aim of studies in Western medicine should be to build skills for practitioners of Traditional Chinese Medicine to enable them to identify and effectively refer potentially serious health conditions in patients to other health professionals.

The study of Western medicine by students wishing to practice Traditional Chinese Medicine is not for the purpose of enabling them to be competent in both modalities. Practitioners of Traditional Chinese Medicine in Australia are not expected to practice in a dual health care system. Practitioners of Traditional Chinese Medicine must be able to recognise warning signs in a patient in order to refer them onto other health professionals within a Western health care system when appropriate.

In order to continue to attract future practitioners to the practice of Traditional Chinese Medicine it is necessary to accept that the primary training and education will be in Traditional Chinese Medicine. Too great a focus on Western medicine may deter potential practitioners.

Treatment through Traditional Chinese Medicine can still be offered to a patient following a diagnosis by another health professional. The disclosure of the use of two modalities should not be the sole responsibility of a patient but should also result from positive consultative relationships between practitioners of Traditional Chinese Medicine and Western doctors.

[60] Chinese Medicine Registration Board, August 2002, Guidelines for the Approval of Courses for Study in Chinese Medicine as a Qualification for Registration, page 18-19

The evidence the Committee received suggests that this type of consultation between practitioners of different schools of health care is not currently taking place.
The Committee believe that it is in the interest of the patient that the incidence of communication occurring between health professionals and practitioners of Traditional Chinese Medicine who are treating the same patient, which is reported to be 71%, is encouraged to increase.[61]

Consumers assume a degree of responsibility in seeking to diagnose and treat health conditions using Traditional Chinese Medicine as the sole method of treatment for their health conditions. There is a degree of acceptance and reliance in the philosophy and diagnostic tools used in Traditional Chinese Medicine when a patient utilises such treatment.

Continuing Professional Education

It is proposed that in order to be accredited a practitioner must achieve a minimum amount of credit points under a continuing professional education scheme. The scheme should reflect the importance of a combination of methods of education and training including clinical supervision, academic training, vocational training and the monitoring of industry developments.

The reported levels of continuing professional education among practitioners of Traditional Chinese Medicine stands at 45% of the workforce,[62]indicating some potential difficulties in accrediting a sufficient number of suppliers of continuing professional education programs. A one year wait for the introduction of the continuing professional education scheme could allow the Board to accredit a sufficient number of suppliers of programs.

A proposed continuing education scheme for Traditional Chinese Medicine practitioners would require the completion of 100 continuing professional education points per year by each practitioner.

The scheme could include the following streams:

Clinical Supervision
Brief description: Have practitioners supervised by a more experienced practitioner for two days
Aim: To enable the sharing of expertise among practitioners

Clinical Competence
Brief description: Completion of an approved course in Traditional Chinese Medicine or a related field
Aim: To enhance the diagnostic skills of the practitioner

[61] Alan Bensoussan and Stephen P Myers, 1996, Towards a Safer Choice – The Practice of Traditional Chinese Medicine in Australia, University of Western Sydney, page 131
[62] Alan Bensoussan and Stephen P Myers, 1996, Towards a Safer Choice – The Practice of Traditional Chinese Medicine in Australia, University of Western Sydney, page 171

Vocational Training
Brief description: Completion of a course in features of practising Traditional Chinese Medicine in a multicultural society
Aim: To enhance the cultural competency of practitioners

Vocational Training
Brief description: Completion of a course in making referrals in the Australian health care system
Aim: To update the knowledge of practitioners of the relevant protocols, networks and other developments which may impact on referring patients

Vocational Training
Brief description: Completion of a course in promoting and using patient feedback
Aim: To encourage practitioners to give patients the opportunity to offer feedback about the service they receive, to give practitioners the skills to utilise patient feedback in a constructive way

Vocational Training
Brief description: Completion of a course in complaint handling
Aim: To equip practitioners with skills in handling complaints, to prevent complaints of a non-serious nature being made to the registration board

Vocational Training
Brief description: Completion of a course in the rights of the patient
Aim: To ensure that practitioners are familiar with the rights of the patient, to encourage a commitment to the rights of the patient among practitioners

Monitoring Industry Developments
Brief description: Attendance at approved conferences
Aim: To expose practitioners to developments in the industry

Monitoring Industry Developments
Brief description: Subscription to approved professional journals
Aim: To expose practitioners to developments in the industry

Monitoring of completion of continuing professional education courses will be necessary through the collection of certified copies of certificates of completion. One submission outlined the difficulties in policing the completion of continuing professional education.[63]

Independent Course Evaluation

The Committee consider that the Victorian Chinese Medicine Registration Board Guidelines are a valuable tool to assess courses within New South Wales. Uniformity and standardisation between the states over courses should be encouraged as much as possible.

However, the Committee considers that there are potential conflicts of interest with a registration board approving courses of study.

[63] Submission number 19 Australian College of Acupuncturists

The Committee considers that, initially, courses should be approved by regulation by the Minister for Health on the advice of the Traditional Chinese Medicine Registration Board. It would be envisaged that, as the Board matures, it will be able to take over this task.

It would also be advantageous for the Traditional Chinese Medicine Board to establish an Education Committee, which includes representation from the relevant universities etc to advise the Board on appropriate educational courses.

Research

The Committee believe that the Traditional Chinese Medicine Board should use its position to promote research in relation to the efficacy of traditional Chinese medicine, particularly in relation to the interaction between Western medicine and Chinese herbal treatments.

The Education Committee of the Board would be well placed to do perform this task.

In the submission from NSW Health there is reference to the possible application of research findings to the curriculum of courses in Traditional Chinese Medicine. The submission goes on to say that: *The proposed legislation (for the registration of Traditional Chinese Medicine practitioners) includes the establishment of an education and research account, administered by the Board, for the purposes of funding:*

- *Traditional Chinese Medicine education*
- *Education or research for any public purpose connected with the practice of Traditional Chinese Medicine*
- *The publication and distribution of relevant information to the public concerning Traditional Chinese Medicine registration and practice*

A delegation of the Committee recently met with a Chinese delegation, which included Professor Ningsheng Wang, Vice Chairman of the Guangzhou University of Traditional Chinese Medicine. Professor Wang shared the Committees view about the importance of registration of Traditional Chinese Medicine. Guangdong province has recently registered all its Traditional Chinese Medicine practitioners.

Professor Wang expressed a wish to have a closer relationship with New South Wales in regards to research of Traditional Chinese Medicine.

RECOMMENDATION 29: That the Western medicine component of professional entry-level courses for Traditional Chinese Medicine be increased and that courses include practical experience in Traditional Chinese Medicine within a clinical setting

RECOMMENDATION 30: That all registered Traditional Chinese Medicine Practitioners be required to undertake Continuing Professional Education

RECOMMENDATION 31: That all educational courses which are recognised by the New South Wales Traditional Chinese Medicine Registration Board be approved by the Minister for Health by way of regulation on the advice of the New South Wales Traditional Chinese Medicine Registration Board

RECOMMENDATION 32: That the New South Wales Traditional Chinese Medicine Registration Board establish an Education Committee to advise it on suitable educational standards and courses

RECOMMENDATION 33: That the Traditional Chinese Medicine Registration Board promote and co-ordinate research into traditional Chinese medicine

APPENDIX ONE – MINUTES

MINUTES OF PROCEEDINGS
COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Friday 10 June 2005
10.30am, Room 1108, Parliament House

1. Members Present
Mr Jeff Hunter MP, Mr Russell Turner MP, Mr Allan Shearan MP, Mr David Clarke and Hon Chirstine Robertson MLC.

2. Apologies
The Hon Dr Peter Wong MLC and Ms Tanya Gadiel MP

3. In attendance
Ms Catherine Watson (Committee Manager)
Ms Glendora Magno (Asst. Committee Officer)

Meeting opened at 10:45 am

4. Confirmation of Minutes
Resolved on the motion of Mr Turner, seconded by Mr Shearan that the minutes of the meeting on 26 May 2005 be accepted.

5. Proposed Inquiry into Traditional Medicine in New South Wales

Resolved on the motion of Mr Shearan, seconded by Mr Turner, that the Committee accept the terms of reference of the inquiry, as follows;

"The Committee is to inquire into and report on the possible regulation or registration of the practice of Traditional Chinese Medicine with particular emphasis on:

- Quality assurance issues concerning regulation or registration including: formal complaint handling and disciplinary procedures; quality and uniformity of training; accreditation; continuing professional education; and grandfathering provisions;
- The feasibility of a National registration system;
- Approaches to regulation and registration of the practice of Traditional Chinese Medicine in other jurisdictions;
- Any other related matters.

Resolved, on the motion of Ms Robertson, seconded by Mr Turner, that the Committee place an advertisement in the local newspapers calling for submissions.

Wednesday 22 June 2005
11am, Room 1254, Parliament House

1. Members Present
Mr Jeff Hunter MP, Mr Russell Turner MP, Mr Allan Shearan MP, Ms Tanya Gadiel MP, The Hon Christine Robertson MLC and the Hon. Dr Peter Wong MLC.

2. Apologies
None received

3. In attendance
Ms Catherine Watson (Committee Manager)
Ms Samantha Ngui (Committee Officer)
Ms Glendora Magno (Assistant Committee Officer)

4. Briefing from the Australian Acupuncture and Chinese Medicine Association
Ms Judy James, Chief Executive Officer and Mr James Flowers, President outlined their support for the registration of Traditional Chinese Medicine in News South Wales and submitted documents outlining the rationale for this position.

Tuesday 9 August 2005
11.45am, Room 1108, Parliament House

1. Members Present
Mr Jeff Hunter MP, Mr Allan Shearan MP, The Hon Christine Robertson MLC and The Hon David Clarke MLC.

2. Apologies
Ms Tanya Gadiel MP, Mr Russell Turner MP and The Hon Dr Peter Wong MLC.

3. In attendance
Ms Catherine Watson (Committee Manager)
Ms Samantha Ngui (Senior Committee Officer)

4. Summary of Submissions Received
Members were provided with a summary of submissions for the inquiry into the Possible Regulation or Registration of the Practice of Traditional Chinese Medicine, which had been received by the 5 August 2005

5. Public Hearing
Members were advised that a Public Hearing for the inquiry into the Possible Regulation or Registration of the Practice of Traditional Chinese Medicine will be held on Wednesday 31 August 2005 from 10am to 1pm in the Jubilee Room, Parliament House

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Wednesday, 31 August 2005
Jubilee Room, Parliament House

Members Present
Mr Jeff Hunter MP, Mr Allan Shearan MP, Ms Tanya Gadiel and Hon Dr Peter Wong, MLC.

In attendance
Ms Catherine Watson (Committee Manager), Ms Samantha Ngui (Sr Committee Officer), Ms Glendora Magno (Assistant Committee Officer)

Apologies
Mr Russell Turner MP, The Hon Christine Robertson, MLC and The Hon David Clarke MLC

The Chairman opened the public hearing at 11:00am

Public Hearing

Witnesses:
Dr Kit Sun Lau, Medical Practitioner, Past President of the NSW Medical Acupuncture College, sworn and examined.
Dr Rebecca T Chow, Medical Practitioner, sworn and examined.
Professor Alan Bensoussan, Professor, University of Western Sydney, sworn and examined.
Dr Stephen Li, Medical Practitioner, Pathologist, sworn and examined
Mr Kieran Pehm, Commissioner, Health Care Complaints Commission, sworn and examined
Ms Judith B James, Chief Executive Officer, Australian Acupuncture and Chinese Medicine Association, sworn and examined
Mr James Flowers, President, Australian Acupuncture and Chinese Medicine Association, sworn and examined
Mr Peter Walters, President, Acupuncture Association of Australia, sworn and examined.
Ms Leone McMahon, Honorary Secretary, Acupuncture Association of Australia, sworn and examined.
Mr Alexander Kiss, Environmental Health Officer, City of Sydney Council, sworn and examined
Mr Jack Zheng, Chinese Medicine and Acupuncture Society of Australia, sworn and examined.
Mr Shi Zong Zeng, Chinese Medicine and Acupuncture Society of Australia, sworn and examined
Ms Deyi Hu, Chinese Medicine and Acupuncture Society of Australia, sworn and examined
Mr Chen Yu Cheng, President, Australian Chjinese Medicine Association, sworn and examined.
Mr Andrew Yuan, Australian Chinese Medicine Association, affirmed and examined
Mr Arseny Ivanoff, President, The Australian Traditional Chinese Medicine Association, sworn and examined
Mr Jingbiao Li, The Australian Traditional Chinese Medicine Association, sworn and examined.

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 4:35 pm

Tuesday 20 September 2005
12.45pm, Room 1108, Parliament House

1. Members Present
The Hon. Christine Robertson MLC, Ms Tanya Gadiel MP, The Hon. David Clarke MLC, Mr Allan Shearan MP, Mr Jeff Hunter MP

2. In attendance
Ms Catherine Watson (Committee Manager), Ms Samantha Ngui (Sr Committee Officer), Ms Glendora Magno (Assistant Committee Officer)

3. Apologies
The Hon Dr Peter Wong MLC

4. Consideration of the Draft Report – Inquiry into Traditional Chinese Medicine
The Committee considered the draft recommendations and the content of the report resolving to deliberate further at the next meeting.

Thursday 13 October 2005
10:30am, Room 1153, Parliament House

1. Members Present
Mr Jeff Hunter MP (Chair), The Hon. David Clarke MLC, Ms Tanya Gadiel MP, Mr Allan Shearan MP, Mr Russell Turner MP

2. In attendance
Ms Catherine Watson (Committee Manager),
Ms Samantha Ngui (Sr Committee Officer),
Ms Belinda Groves (Committee Officer)

3. Apologies
The Hon. Christine Robertson MLC, The Hon. Dr Peter Wong MLC

4. Consideration of the Draft Report – Inquiry into Traditional Chinese Medicine
Members further deliberated the draft report resolving to consider a later edition with amendments.

Wednesday 19 October 2005
10:15am, Room 1053, Parliament House

1. Members Present
Mr Jeff Hunter MP (Chair), The Hon. David Clarke MLC, Ms Tanya Gadiel MP, The Hon. Christine Robertson MLC, Mr Allan Shearan MP, Mr Russell Turner MP

2. In Attendance
Ms Catherine Watson (Committee Manager),
Ms Samantha Ngui (Sr Committee Officer),

Ms Belinda Groves (Committee Officer)

3. Apologies
The Hon. Dr Peter Wong MLC

4. Consideration of the Draft Report – Inquiry into Traditional Chinese Medicine
Members deliberated on the draft report and agreed to amendments.

5. Consideration of the Draft Minutes
Resolved on the motion of Russell Turner, seconded by Allan Shearan, that the minutes of the meeting of 13 October 2005 be accepted, with amendments.

Wednesday 9 November 2005
10:15am, Room 1108, Parliament House

1. Members Present
Mr Jeff Hunter MP (Chair), The Hon. David Clarke MLC, The Hon. Christine Robertson MLC, Mr Allan Shearan MP, Mr Russell Turner MP, The Hon. Dr Peter Wong MLC

2. In Attendance
Ms Catherine Watson (Committee Manager),
Ms Samantha Ngui (Sr Committee Officer),
Ms Belinda Groves (Committee Officer)

3. Apologies
Ms Tania Gadiel MP

4. Consideration of the Draft Report – Inquiry into Traditional Chinese Medicine
On the motion of The Hon. Dr Wong, seconded by The Hon. Ms Robertson:

> That the draft report: "Report into Traditional Chinese Medicine" be accepted as a report of the Committee on the Health Care Complaints Commission, and that it be signed by the Chairman and presented to the House.

Passed unanimously.

On the motion of Mr Turner, seconded by The Hon. Mr Clarke:

> That the Chairman and Committee Manager be permitted to correct any stylistic, typographical and grammatical errors in the report.

Passed unanimously.

5. Consideration of the Draft Minutes
Resolved on the motion of Mr Turner, seconded by The Hon. Mr Clarke that the minutes of the meeting of 19 October 2005 be accepted.

APPENDIX TWO – LIST OF SUBMISSIONS RECEIVED

No. 1 - PATTERSON Mr Murray (Department of Health - Western Australia)
No. 2 - LEI Dr Liu
No. 3 - HOLMES Mr Brett (NSW Nurses' Association)
No. 4 - KENOS Ms Ange
No. 5 - KERKYASHRIAN Mr Stepan (Community Relations Commission for a Multicultural NSW)
No. 6 - KIPPIN Miss Kylie (Department of Health - Western Australia)
No. 7 - COLEMAN Mr Brian (Australian Natural Therapists Association Ltd)
No. 8 - DIX Mr Andrew (NSW Medical Board)
No. 9 - CHAOJI XU (The Chinese Medicine Association of Australia Inc)
No. 10 - LAU Dr Kit Sun (Australian Medical Acupuncture College)
No. 11 - LI Dr Stephen (Australian Chinese Medical Association)
No. 12 - TRAN Ms Anne
No. 13 - MITCHELL Dr David (Australian Medical Acupuncture College)
No. 14 - WANG Mr Michael
No. 15 - MIAO Mr Edwin
No. 16 - FAWCETT Mrs Marie (Australian Traditional-Medicine Society)
No. 17 - WALTERS Mr Peter (Acupuncture Association of Australia)
No. 18 - MALAK Mr Abd-Elmasih (Diversity Health Institute)
No. 19 - MEIER Mr Peter (Australian College of Acupuncturists Ltd)
No. 20 - LIN Professor Vivian (Chinese Medicine Registration Board of Victoria)
No. 21 - CHEETHAM Ms Lucy (COTA National Seniors Partnership (CNSP))
No. 22 - ZASLAWSKI Mr Christopher (University of Technology Sydney)
No. 23 - JOHNSTON Ms Maria (Oriental Health Practitioner Association of Australia Incorporated)
No. 24 - WONG Professor Felix (University of New South Wales)
No. 25 - LEGGE Mr David (Acupuncture Association of Chiropractors and Osteopaths)
No. 26 - BAXTER Mr John (Natural Herbalists Association of Australia)
No. 27 - PEHM Mr Kieran (NSW Health Care Complaints Commission)
No. 28 - BISHOP Professor Jim (Cancer Institute NSW)
No. 29 - JAMES Ms Judy (Australian Acupuncture and Chinese Medicine Association)
No. 30 - MARTIN Ms Karen (Federation of Natural & Traditional Therapists LTD)
No. 31 - KISS Mr Alex (City of Sydney Council)
No. 32 - CARLTON Ms Anne-Louise (Department of Human Services)
No. 33 - LAU Dr Kit Sun (Australian Medical Acupuncture College)
No. 34 - ALLEN Mr Peter (Department of Human Services)
No. 35 – KRUK Ms Robyn (NSW Health)

APPENDIX THREE – INFORMATION PROVIDED BY THE UNIVERSITY OF TECHNOLOGY, SYDNEY

Grandfathering according to the Australian Qualifications Framework

This document was prepared by Mr Chris Zaslawski and Dr Peter Meier of the College of Traditional Chinese Medicine at the University of Technology, Sydney for submission to the Health Care Complaints Committee on the possible registration of the practice of Traditional Chinese Medicine (TCM). Ms Judy James from the Australian Acupuncture and Chinese Medicine Association (AACMA) and Mrs Nancy Morgan from the Australian College of Acupuncturists (ACA Ltd) were also asked to provide comment but were not authors.

Grandfathering will involve assessment of a diverse group of applicants of varying qualifications and ethnic backgrounds with either Australian or overseas qualifications and training. Therefore the criteria and methodology for assessment could be complex and costly.

One option to assist the grandfathering process could be based on educational qualifications according to the Australian Qualifications Framework (AQF). For details on the AQF see www.aqf.edu.au. This paper only deals with grandfathering based on the AQF. Two other grandfathering options are:

- Prior assessment /examination by a recognised professional body;
- Examination by the proposed NSW TCM Registration Board.

This paper does not discuss such grandfathering options.

Prescribed educational courses could be categorised according to the AQF standards. Applicants would be classified into the following categories.

Category 1

Australian graduates from accredited Bachelor degree courses (according to the AQF) where the primary focus of study involves acupuncture, Chinese herbal medicine or a combination of both. Currently there are two Australian universities in NSW offering Bachelor qualifications, the University of Technology, Sydney (UTS) and University of Western Sydney (UWS). There also exist a number of students who graduated from Acupuncture Colleges (Australia), a private provider who was accredited by the NSW Higher Education Office with a bachelor degree in acupuncture, during the years 1994-1997.

Category 2

Australian graduates from accredited Advanced Diploma and Diploma (according to the AQF). Currently the Sydney Institute of Traditional Chinese Medicine (located at Leichhardt) offers an Advanced Diploma in TCM and has previously graduated students with an accredited Diploma in TCM qualification. In addition, Acupuncture Colleges (Australia) graduated a number of students with an accredited Diploma in Applied Science (Acupuncture), during the years 1987-1994.

Category 3
Australian graduates from non accredited courses. Prior to the Acupuncture Colleges (Australia) obtaining an accredited Diploma course, a number of private institutions offered non accredited courses eg Practitioner Diploma of Acupuncture (Acupuncture Colleges Australia; 1969-1987), Diploma of TCM (Sydney College of Natural Therapies and Traditional Chinese Medicine).

Category 4
Overseas trained graduates from Bachelor degree courses (equivalent to the AQF Bachelor). These would include graduates from Chinese Colleges and Universities of Chinese Medicine, as well as Korean Oriental Medicine and Acupuncture Colleges and Universities. It may also include graduates from English and American Universities and Colleges.

Category 5
Overseas graduates from Advanced Diploma or Diploma courses (equivalent to the AQF categories). This may include Western medical doctors from China who have completed 3 years diplomas in Chinese medicine and acupuncture from Chinese institutions.

Category 6
Overseas graduates from non accredited courses. This may include practitioners trained by private providers, eg Hong Kong, Taiwan.

Category 7
Individuals currently practising who have not undertaken a formal course of study in TCM. This would include practitioners who have been apprenticed to senior practitioners. They could have trained in China, Taiwan, Korea, Vietnam or Australia.

A possible grandfathering process would involve a combination of prescribed courses and years of practice. Those individuals who had completed a prescribed course and could prove continuing practice would be eligible for registration. Those not meeting the criteria would be offered a bridging program.

Automatic grandfathering/registration
Applicants in Categories 1-6, who can demonstrate currency of knowledge via proof of continued practice for a minimum of 5/10 consecutive years dating back from the enactment of the registration act, would be automatically grandfathered and eligible for registration.

Newer graduates (from categories 1 and 4 with less than 5 years proof of practice) would need to provide proof of continuous practice from graduation to apply for registration if this period falls within the required 5/10 years.

Proof of practice (but not necessarily proof of active practice) may constitute such verified evidence as:

- tax records;
- yellow pages ads;
- business name incorporation/rego (if in the name of a clinic or incorporated person identified the discipline. Business registrations under a private name would require further investigation);
- association membership (not proof of practice necessarily);

- evidence of continuing professional education;

Applicants for who do not meet Grandfathering requirements (Category 7 and others)

Applicants from category 7, or those applicants who fail to meet the requirements of 'years in practice' or whose educational qualifications cannot be validated may sit a written and practical examination (given in English) or undertake a bridging course.

A "bridging" course for those currently practicing but unable to meet the above requirements would likely run for 1-2 years part time. The exact time frame for such a course and the content required will need to be assessed and determined after appropriate consultation with all stake holders such as educational institutes and professional associations.

It is considered appropriate to permit continued *provisional practice* throughout the "bridging course" period provided the applicant can prove continual practice for the preceding 5/10 years.

References

Australian Qualifications Framework Advisory Board (2002). *Australian Qualifications Framework. Implementation Handbook (3rd Ed).* Melbourne: Australian Qualifications Framework Advisory Board.

Upgrade Course for Practitioners of Traditional Chinese Medicine

There is currently in NSW an inquiry by a Health Care Complaints Committee (HCCC) into registration of practitioners of Traditional Chinese Medicine (TCM). During a private hearing with Mr Chris Zaslawski (Director) and Dr Peter Meier (Course Director) of the College of Traditional Chinese Medicine at the University of Technology, Sydney the HCCC have requested a draft document outlining the educational requirements for an 'upgrade' course (UC) to offer practitioners of TCM who fail to meet grandfather requirements as set forth by a proposed NSW TCM Registration Board.

The UC would focus primarily on establishing and verifying safe standards of practice for those applicants' currently practising acupuncture and Chinese herbal medicine but unable to obtain automatic registration, yet eligible for provisional registration.

Qualification on course completion

There are three options in regard to the qualification obtained on completion of the UC. These are:

- Non award qualification. This would not be an academic award but certification that the course had been completed. There is no educational accreditation required. This is the preferred option. The course and its institutional provider would be prescribed by the NSW TCM Registration Board.
- Vocational Education and Training sector qualification (Certificate 1-4, Diploma, Advanced Diploma). This could be offered through the UTS Insearch, which is an accredited training organisation (RTO) or any other accredited RTOs. This is the second preferred option. Course accreditation could be time consuming, furthermore it establishes a lower level of graduate entry than the previously agreed Bachelor award (see Australian Guidelines for Traditional Chinese Medicine Education).

- Higher Education Sector qualification (Bachelor, Graduate Certificate, Graduate Diploma, Masters or Doctoral Degree). This is the least preferred option as a post graduate award eg certificate or diploma assumes a previous Bachelor degree. This would be hard to justify and may be misleading to the public.

Curriculum

The UC would have two strands, these being acupuncture or a Chinese herbal medicine strand. The curriculum would be based around four modules. These are:

- Upgrade and validation of Health Sciences (Three subjects);
- Upgrade and validation of Clinical communication skills (One subject);
- Upgrade and validation of Chinese medicine knowledge and skills (either acupuncture, Chinese herbal medicine or both) (One subject acupuncture, one subject Chinese herbal medicine);
- Upgrade and validation of the safe Clinical practice of acupuncture or Chinese herbal medicine (One subject).

Common to both strands are Health Sciences (three subjects), Clinical Communication Skills (one subject) and Safe Clinical Practice (one subject). Participants would then complete either the subject Acupuncture Review (for those practising acupuncture), or Chinese Herbal Medicine Review (for those practising Chinese herbal medicine). Completion of all six subjects would take 1½ years part time, studying two subjects per semester.

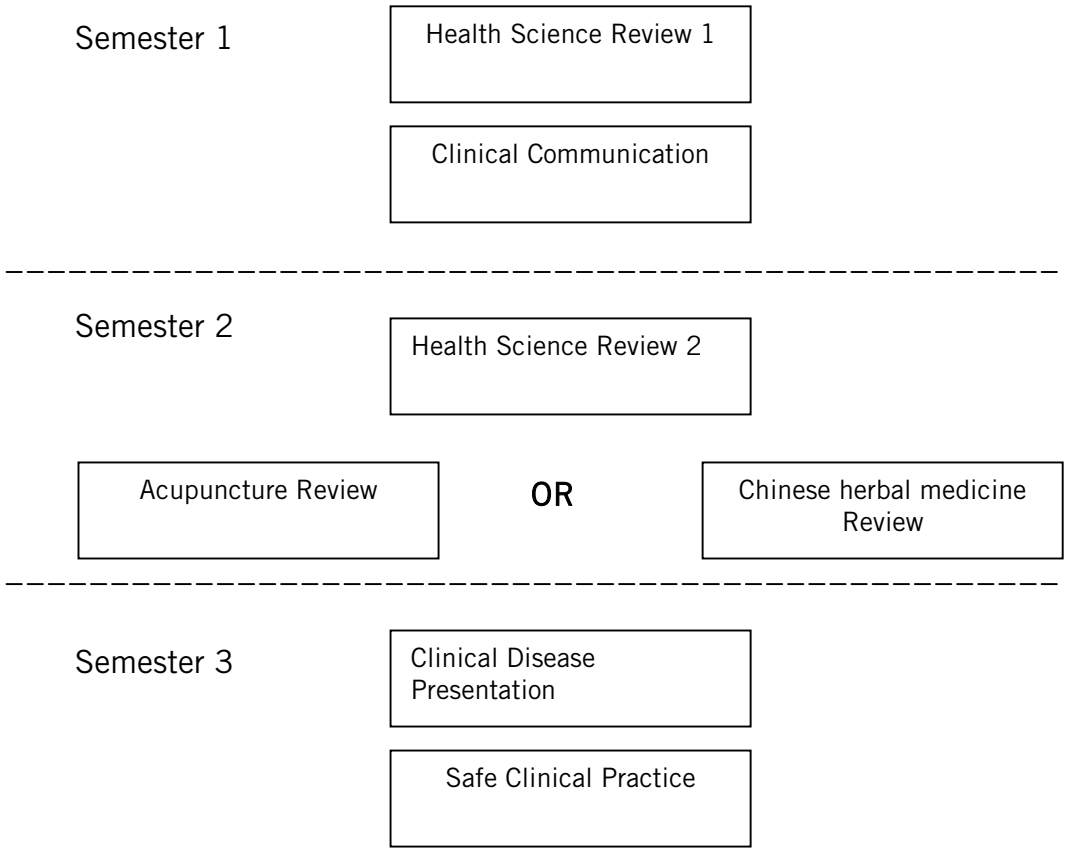

Figure 1: Sequencing of subjects

Health Sciences Module

This module would involve three subjects. These are:

- Health Science Review 1 and 2

These two subjects focus on the review of anatomy, physiology and pathology of the major body systems as well as the pharmaceutical treatment of disease. It would involve medical terminology.

- Clinical Disease Presentation

This third subject would involve clinical assessment and the identification of "red flags" symptoms that may indicate sinister pathology or require urgent medical attention and need to be referred to a medical practitioner for medical diagnosis.

Clinical Communication

This subject facilitates the development of essential interpersonal and helping skills specifically required for the safe practice of TCM. The subject introduces students to approaches to understanding people and effective interpersonal communication. Teaching material will use clinical and medical terminology.

Chinese herbal medicine Review

This subject would review the current understanding of the pharmacology of some major Chinese herbs, known interactions of Chinese herbal substances with medication and toxicology. The focus of the subject is on safe use of Chinese herbal medicine. The subject may also require a clinical assessment.

Acupuncture Review

This subject deals with the location, depth, action, special precautions and contra-indications of the major points used in clinical practice. It closely examines acupuncture point anatomical substructures and provides a basis for understanding precautions associated with acupuncture and its safe practise. There will be an emphasis on understanding strategies for safe needling of high risk acupoints. The subject may also require a clinical assessment.

Safe Clinical Practice

This subject reviews current clinical practices concerning sterilisation methods and aseptic requirements for the practice of acupuncture, needle care, the use of disposable needles, standards of cleanliness required for the provision of Chinese herbal services, clinical record keeping, clinical ethics, as well as legal and professional issues.

Subject Assessment

The focus of the UC is on maintaining safe practice and a pass mark of 70% would be required for the subjects:

- Clinical Disease Presentation
- Clinical Communication
- Chinese herbal medicine Review
- Acupuncture Review
- Safe Clinical Practice

A pass mark of 50% would be required for:

- Health Science Review 1
- Health Science Review 2

Assessment

A variety of different strategies would be used including examinations, essays, reports and practical viva examinations.

Delivery Mode

It is envisaged that subject delivery would use face to face 'block teaching' (two weekends a semester) as well as paper based distance or online delivery. All examinations would occur during the 'block teaching' periods to ensure no misconduct occurs.

References

National Academic Standards Committee for Traditional Chinese Medicine (2001). *Australian Guidelines for Traditional Chinese Medicine Education*. Brisbane: Australian Acupuncture and Chinese Medicine Association.