



Appendices to application for general registration

(Acupuncturists & Chinese herbal medicine practitioners)

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Appendix 1 Why is it necessary to register?

Background

The *Health Professions Registration Act 2005* (HPR Act) is new Victorian legislation which became operational on 1 July 2007, replacing the *Chinese Medicine Registration Act 2000*. One of the main purposes of the HPR Act is to ‘protect the public’ by providing for:

- the registration of acupuncturists, Chinese herbal medicine practitioners, and dispensers of Chinese herbs, and
- investigations into the professional conduct and fitness to practise of registered practitioners.

Other main purposes of the HPR Act include the continuation of the Chinese Medicine Registration Board of Victoria (CMR Board) and the regulation of advertising by members of the profession (see section 1 of the HPR Act).

Register of Chinese Medicine Practitioners

Practitioners can apply to be registered in one or more of the following divisions in the *Register of Chinese Medicine Practitioners*:

- Chinese herbal medicine practitioners
- Acupuncturists
- Chinese herbal dispensers

Why it is necessary to register

It is a legal requirement for all acupuncturists and Chinese herbal medicine practitioners in Victoria to apply for registration in the *Register of Chinese Medicine Practitioners*.

Part 5 of the HPR Act states that it is an offence for any practitioner in Victoria who is not registered under the HPR Act to:

- hold themselves out to be qualified to practise as a ‘Chinese herbal medicine practitioner’, an ‘Acupuncturist’ or a ‘Chinese herbal dispenser’; or
- use any of these titles (or any of the other titles listed in section 80(2) of the Act); or
- claim to be qualified to practise Chinese medicine.

Exception: registration with other board

The ONLY exception that can occur to the need for a Victorian practitioner to register under the HPR Act is if he or she is registered with another Victorian board, and as a registered medical practitioner, nurse, dental care provider, chiropractor, osteopath, physiotherapist, pharmacist, podiatrist or optometrist have been endorsed by their own board to use certain titles of the Chinese medicine profession (ie ‘Acupuncturist’).

Non-Victorian practitioners

Non-Victorian practitioners have the option of seeking registration under the Victorian HPR Act. However, if a Chinese medicine practitioner intends to practise (using the protected titles or claiming to be qualified) in Victoria, he or she **MUST** apply for registration prior to doing so. Otherwise, their practice in Victoria may be in breach of the HPR Act.

Temporary visitors to Australia

Temporary visitors to Australia who intend to practise acupuncture, Chinese herbal medicine, or Chinese herbal dispensing in Victoria may apply for registration. Otherwise, their practice in Victoria may be in breach of the HPR Act.

In some circumstance, including temporary practise in Victoria, practitioners may qualify for specific (temporary) registration; further information is available at www.cmrb.vic.gov.au/registration/applintro.html.

Non-Chinese medicine acupuncturists

Practitioners who practise acupuncture within a tradition other than Chinese medicine (and who are not registered with another health practitioner registration board in Victoria) **MUST** apply to the CMR Board for registration in the division of Acupuncturists if they wish to use the title 'Acupuncturist'. Otherwise, their practice may be in breach of the HPR Act.

If registration is granted, the practitioner will be required, at all times during practice, to follow the relevant guidelines (and other requirements) set by the CMR Board to ensure safe and competent needling practices, including proper infection control procedures.

Conditions may be attached to registration

The CRM Board may attach conditions on the registration of non-Chinese medicine practitioners.

Appendix 2 Persons authorised to witness the signing of statutory declarations and to certify true copies of documents

Applicants signing in Victoria

Under section 107A of the *Evidence Act 1958*, the following people in Victoria are authorised to witness the signing of a statutory declaration and to certify a true copy of a document:

- a justice of the peace (JP) or a bail justice. (To locate your nearest JP, phone the info-line on (03) 9628 9014);
- a notary public;
- a barrister and solicitor of the Supreme Court;
- a clerk to a barrister and solicitor of the Supreme Court;
- any of the following:
 - the prothonotary or a deputy prothonotary of the Supreme Court;
 - the registrar or a deputy registrar of the County Court;
 - the principal registrar or a registrar or deputy registrar of the Magistrates' Court.
- the registrar of probates or a deputy registrar;
- the associate to a judge of the Supreme Court or County Court;
- the secretary to a master of the Supreme Court or County Court;
- a person registered as a patent attorney under part XV of the *Patents Act 1958*;
- a member of the police force;
- the sheriff or a deputy sheriff;
- a member (or former member) of either house of parliament of Victoria;
- a member (or former member) of either house of the federal parliament;
- a councillor of a municipality;
- a senior officer of a council, as defined by the *Local Government Act 1989*;
- a registered medical practitioner within the meaning of the *Medical Practice Act 1994*;
- a registered dentist within the meaning of the *Dental Practice Act 1999*;
- a veterinary practitioner;
- a pharmacist;
- a principal in a teaching service;
- the manager of an authorised deposit-taking institution;

- an accountant (a member of: the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the National Institute of Accountants);
- the secretary of a building society;
- a minister of religion authorised to celebrate marriages;
- a person employed under part 3 of the *Public Sector Management and Employment Act 1998* with a prescribed classification;
- a fellow of the Institute of Legal Executives of Victoria.

Note: with the exception of (former) federal parliamentarians, all persons listed above hold their position in Victoria.

Applicants signing in other jurisdictions

If you are signing the statutory declaration in your application form outside Victoria, or obtaining a certified true copy of a document outside Victoria, you must check to see who has an equivalent authorisation to take statutory declarations and certify true copies in your jurisdiction.

Information about signing statutory declarations outside Victoria is available on the website at: <http://www.cmr.vic.gov.au/registration/authtowit.html>.

Appendix 3 Application and registration fees

Power of the board to set fees

The Chinese Medicine Registration Board of Victoria (CMR Board) has the power to determine the fees payable for registration under the *Health Professions Registration Act 2005* (HPR Act).

Section 140 of the HPR Act sets out the powers and responsibilities of the CMR Board in relation to fees.

The CMR Board may fix different fees for different purposes and may allow for the reduction, waiver or refund, in whole or in part, of any fee — section 140(1)(b).

The CMR Board must publish any fee it has fixed in a newspaper circulating generally throughout Victoria and in the Government Gazette. Section 140(2) states that in fixing fees under the HPR Act, the CMR Board is entitled to ensure that the amount of money collected in fees under the HPR Act is sufficient to cover the cost to the CRM Board of administering the HPR Act.

Factors taken into consideration in determining fees

The Board is committed to implementing a level of fees that is affordable for the profession and at the same time meets the CMR Board's obligations under the HPR Act to protect the public.

The setting of fees has been given careful consideration by the CMR Board. Factors considered by the CMR Board include:

- the CMR Board is required to be self-funding
- some expenses, such as the costs of investigations and hearings, especially legal costs are difficult to predict and are proving to be high. The CMR Board must maintain a contingency fund to cover such costs. In addition, CMR Board decisions are reviewable and money must be set aside to fund any appeals against CMR Board decisions.

The CMR Board is committed to reducing its registration fees if it can reasonably do so.

Process for fee payment

The application fee must be sent with the application form. It is non-refundable and applies whether or not registration is granted.

If registration is granted by the CMR Board, the applicant will then be invoiced for their registration fee.

The registration year runs from July to June every year in accordance with the HPR Act. All initial and re-registration fees paid during the registration year pay for registration

until 30 June of that registration year. With the exception of the half year new graduate fee, no pro-rata fees are applicable.

Once the registration fee has been received the CMR Board will register the practitioner in the *Register of Chinese Medicine Practitioners*. A certificate of registration will be issued and the practitioner will be legally recognised as a registered practitioner.

Schedule of prescribed fees 2009-2010

The schedule of prescribed fees (below) has been published in the Victorian Government Gazette.

Application and registration fees for general registration

Applicable 1 July 2009 to 30 June 2010

| | |
|--|-------|
| Application | \$50 |
| Registration | |
| Single division | \$420 |
| Two divisions | \$475 |
| Three divisions | \$525 |
| ¹New graduate full year registration | |
| Single division | \$320 |
| Two divisions | \$370 |
| Three divisions | \$415 |
| New graduate ²half year registration | |
| Single division | \$160 |
| Two divisions | \$185 |
| Three divisions | \$205 |
| ³Re-registration | |
| Single division | \$520 |
| Two divisions | \$575 |
| Three divisions | \$625 |

Other Fees

Although fees have also been established for endorsement of registration, entry of post-graduate qualifications on the *Register of Chinese Medicine Practitioners* etc., the CMR Board has not yet commenced this process.

Updated information on application and registration fees will be posted on the Board's website, together with details of other fees, such as examination fees which are independent of registration fees (www.cmr.vic.gov.au).

¹ New graduates are defined as practitioners commencing health care practice for the first time.

² Half year fees are applicable from 1 January to 30 June of the same year.

³ Applicants for reregistration may submit the application and registration fees simultaneously if desired, to hasten the process.

Appendix 4 Definition of an alcoholic or drug-dependent person

This definition is within the meaning of the *Alcoholics and Drug-dependent Persons Act 1968*. Section 3 of the *Alcoholics and Drug Dependent Persons Act 1968* states as follows:

Definitions

(1) In this Act unless inconsistent with the context or subject-matter—

"alcoholic" means a person who habitually uses intoxicating liquor to such an extent that he has lost the power of self-control with respect to the use of intoxicating liquor or to such an extent as to endanger the health safety or welfare of himself or other persons;

"drug of addiction" means any drug of dependence within the meaning of the *Drugs Poisons and Controlled Substances Act 1981*;

"drug-dependent person" means a person who habitually uses drugs of addiction to such an extent that he has lost the power of self-control with respect to the use of drugs of addiction.

Appendix 5 Policy on English language and effective communication

1 English language proficiency

1.1 Introduction

Section 6(2)(f) of the *Health Professions Registration Act 2005* (HPR Act) states that the Chinese Medicine Registration Board of Victoria (CMR Board) may refuse general registration to an applicant where:

...the applicant's competency in speaking or otherwise communicating in English is not sufficient for that person to practise as a health practitioner.

From 1 January 2005, all new applicants for general registration under the HPR Act, whose first language is not English, must have completed an acceptable English language test. This is to ensure that they can communicate competently and safely with patients, their families, colleagues and other health care practitioners. The CMR Board considers that a comprehensive knowledge of English is essential to safe and effective practice of Chinese medicine in Australia.

The test must have been undertaken not more than three years before lodging the application for registration. A certified copy of the test results must be forwarded to the CMR Board before your application can be finalised.

See section 1.5 for contact details regarding English language tests.

1.2 Acceptable tests

The acceptable tests are described in sections 1.2.1 through 1.2.3. For information on contacting the institutions administering these tests, see section 1.5.

1.2.1 International English Language Testing System (IELTS)

Only the academic test is acceptable and the minimum requirement is 6.0 in each component.

1.2.2 Occupational English Test (OET)

The minimum requirement is B-level in all four sections.

1.2.3 American Test for English as a Foreign Language (TOEFL)

This will only be accepted if the test included the spoken component. The minimum requirement is 237 (test of written English 4.5).

1.3 Unacceptable tests

The Business English Certificate (BECS) is unacceptable.

1.4 Exemptions

The requirement to complete an English language test may be waived where the practitioner:

- has successfully completed Chinese medicine postsecondary education of at least 2 years fulltime, for which English was the medium of instruction
- has original evidence of successful completion of another test that can be demonstrated to be of an equivalent standard to one of the acceptable tests
- can otherwise demonstrate adequate proficiency in English.

1.5 English language tests

International English Language Testing System (IELTS)

IELTS Australia
GPO Box 2006
Canberra ACT 2601
Australia

Telephone: +61 2 6285 8222

Facsimile: +61 2 6285 3233

Email: ielts@idp.edu.au

Website: <http://www.ielts.org>

Occupational English Test (OET)

Language Australia
GPO Box 372F
Level 4, 51 Queen St,
Melbourne Victoria 3001
Australia

Telephone: +61 3 9612 2600 or +61 3 9612 2610

Facsimile: +61 3 9612 2601

Email: oet@la.ames.vic.edu.au

Website: <http://www.languageaustralia.com.au>

Test of English as a Foreign Language (TOEFL)

Website: <http://www.ets.org/toefl>

See the website for test centre locations, test dates, the TOEFL bulletin (PDF file) and online registration. There are two test delivery formats: paper-based and computer-based. The TOELF exam assesses reading, writing and listening and as an option, you can also register for the Test of Spoken English (TSE). The TSE measures the ability of non-native speakers to speak in an academic or professional environment. From September 2005, a new test will assess all four communicative skills (reading, listening, speaking and writing).

2 Effective communication guidelines

2.1 Introduction

Under the transitional provisions of the HPR Act (grandparenting provisions), which ended on 31 December 2004, a small number of practitioners who are not competent in English were registered on the basis of agreeing to comply with these guidelines.

The CMR Board recognises that:

- although most patients in Victoria speak English as their first language or are competent in communicating in English, some do not
- emergency services in Victoria are most swiftly and effectively accessed by persons who are competent in speaking English.

2.2 Guidelines developed

The CMR Board has the power to regulate standards of practice, pursuant to Section 118(1)(d) of the HPR Act. Section 118(1)(g) of the HPR Act also gives the CMR Board the power to issue guidelines in relation to those standards.

The guidelines apply to ALL registered practitioners.

The CMR Board has developed guidelines to ensure that:

- all registered practitioners, who were registered under the grandparenting provisions and are not competent in speaking in English, have appropriate arrangements in place for effective communication with emergency services
- all registered practitioners have appropriate arrangements in place for effective communication with patients with whom they do not share a common language.

The CMR Board's guidelines in relation to effective communication apply to all registered practitioners in the consultation and treatment of all patients.

2.3 Need for effective communication

Before an applicant will be granted general registration under Section 6 the HPR Act, the CMR Board must be satisfied with the issues described in subsections 2.3.1 and 2.3.2.

2.3.1 Communication with patients

Appropriate arrangements will be in place at all times during a consultation or treatment to ensure effective two-way communication with patients.

2.3.2 Communication with emergency services

Appropriate arrangements will be in place at all times during practice to ensure that swift and effective contact can be made in English with emergency services (medical and nonmedical) by telephone.

2.4 Guidelines

2.4.1 Guideline 1: effective communication with emergency services

A registered practitioner who was registered under the grandparenting provisions and is not competent in speaking in English must have appropriate arrangements in place at all times during practice to enable swift and effective telephone contact in English with emergency services (medical and nonmedical).

Appropriate arrangements for the purposes of contacting emergency services, are that:

- the registered practitioner is competent (ie of at least average skill) in **speaking** English and in communicating by telephone swiftly and effectively

OR

- a person appointed by the registered practitioner is present at the clinic who is competent (ie of at least average skill) in **speaking** English and in communicating by telephone swiftly and effectively.

2.4.2 Guideline 2: effective communication with patients

Any registered practitioner must have appropriate arrangements in place at all times during a consultation or treatment to ensure effective two-way communication with the patient to enable in particular:

- an adequate **patient history** to be taken
- the patient to understand the **information and advice** given in relation to their medical condition
- the patient to understand the **instructions** given in relation to their treatment regime, in particular, the administration of herbal medicines
- swift and effective communication with the patient in **emergency situations** (medical or nonmedical).

Appropriate arrangements for the purposes of consultation or treatment are that:

- the registered practitioner and the patient are both competent in communicating in a **common language**

OR

- a suitable **interpreter** is present throughout the consultation or treatment.

2.4.3 Definitions

Some of the terms regarding effective communication with patients are defined below.

| Term | Definition |
|-----------------------------|--|
| Common language | <p>A language that the registered practitioner:</p> <ul style="list-style-type: none"> • is competent in communicating in for the purpose of practising Chinese medicine • reasonably believes that the patient is competent in communicating in <p>AND</p> <ul style="list-style-type: none"> • reasonably believes that effective two-way communication occurs whether by speaking or otherwise communicating (eg reading and writing). |
| Competent | Of at least average skill. |
| Suitable interpreter | <p>A suitable interpreter is a person whom:</p> <ul style="list-style-type: none"> • the patient agrees to • the registered practitioner agrees to • the registered practitioner reasonably believes <ul style="list-style-type: none"> – is competent in communicating in the language being used by the patient and the registered practitioner whether by speaking or otherwise communicating (eg reading and writing) – will provide accurate interpretation – is being used as necessary to ensure that effective two-way communication occurs between the registered practitioner and the patient. <p>Ideally, the interpreter will be NAATI⁴ accredited because they:</p> <ul style="list-style-type: none"> • have been accredited to ensure that they meet specified minimum standards • are independent (the use of persons who have a personal relationship with the patient can inhibit the open disclosure of personal and health information and this may detract from the effectiveness and safety of your consultation) • are encouraged and expected to abide by a code of ethics issued by the Australian Institute for Interpreters and Translators (AUSIT). |

⁴ Contact the National Accreditation Authority for Translators and Interpreters on 03 9642 3301 for the name of a suitable translation service.

Appendix 6 Guidelines on first aid

1 Preamble

The Chinese Medicine Registration Board of Victoria (CMR Board) has the power to regulate standards of practice, pursuant to Section 118(d) of the *Health Professions Registration Act 2005*. Section 118(2) of the HPR Act also gives the CMR Board the power to issue guidelines in relation to those standards.

The CMR Board has developed the following guideline to ensure that first aid treatment is available swiftly and effectively at all times during practice by a registered practitioner.

The guideline applies to ALL registered practitioners.

2 Availability of first aid treatment

At all times during practice by a registered practitioner:

- the registered practitioner must hold a current First Aid Certificate Level 2 (or equivalent)

OR

- a person must be present at the clinic who has been appointed by the registered practitioner AND who holds a current First Aid Certificate Level 2 (or equivalent) AND who can swiftly and effectively administer first aid if required.

Appendix 7 Guidelines on professional indemnity insurance

1 Preamble

The Chinese Medicine Registration Board of Victoria (CMR Board) has the power to regulate standards of practice, under Section 118(1)(d) of the *Health Professions Registration Act 2005* (HPR Act). Section 118(1)(h) of the HPR Act gives the CMR Board the power to issue and publish guidelines about the minimum terms and conditions for professional indemnity insurance.

The HPR Act establishes statutory powers for the CMR Board to require professional indemnity insurance as a condition of initial and ongoing registration. The relevant sections are 6(2)(h), 6(3), 7(5), 9(3), 10(4)(a) & (b), 10(5)(a) & (b), 13 and 18(3)(a) of the HPR Act.

The CMR Board has developed the following guidelines to ensure that, at all times during practice, practitioners are covered by an approved level of professional indemnity insurance (ie that meets the minimum terms and conditions established by the CMR Board).

These guidelines apply to all registered Chinese medicine practitioners. Insurance in accordance with these guidelines is a precondition of registration.

2 Guidelines

2.1 Guideline 1: undertakings by practitioners

All applicants for registration are required to provide the CMR Board with certain undertakings before registration will be granted, including that at all times during practice, as a registered practitioner, the practitioner will abide by the CMR Board's *Guidelines on Professional Indemnity Insurance*. The applicant must certify that they will not begin practice until their professional indemnity insurance is in place, and that at all times during practice the applicant will be covered by an approved level of professional indemnity insurance.

2.2 Guideline 2: risk and practitioner responsibility

Practitioners must, in consultation with their insurer or insurance broker, identify the risk exposure associated with their practice, and outcomes linked to long-term care factors **and ensure** that the limit of indemnity commensurate with those specific risks. The professional risks component of the selected insurance policy must be broad enough to cover the scope of the practitioners practice. Practitioners should also obtain their own advice about how much run-off cover they require to ensure they are covered for claims brought against them many years later (ie how they are affected by the relevant legal limitation periods within which their former patients may sue them).

It is the responsibility of the practitioner to:

- examine the insurance policy to ensure that the cover obtained provides appropriate protection for risks arising from the full scope of the practitioner's provision of professional services
- ensure that the schedule describes the activities carried on to be certain that the cover is appropriate to the practitioner's business risk, for example
 - acupuncture and moxibustion
 - Chinese herbal medicine
 - orthopaedics and traumatology
 - massage
 - other
- ensure that there are no exclusions which render any of your patients or practices excluded from cover
- be aware that insurance policies do not cover practitioners for damages awarded to patients as a result of assault or other unlawful activities, including sexual assault.

2.3 Guideline 3: approved level of cover

All practitioners are required to:

- be covered by an approved level of professional indemnity insurance prior to beginning practice as a registered practitioner

AND

- maintain an approved level of cover at all times during practice.

Currently, the CMR Board has determined that the approved level of cover (ie the minimum sum insured limit of professional indemnity insurance required by the CMR Board) is:

- no less than \$2 million cover for any single claim (ie for each claim) that may be made against the practitioner, plus either:
 - a minimum of one automatic reinstatement of the limit in the annual aggregate; or
 - an aggregate coverage of at least \$4 million.

The CMR Board reserves the right to vary the approved level of cover at registration renewal. Registrants may be covered either by their own or their employer's insurance policy, or as a member or subscriber of a representative professional association arranging professional indemnity insurance cover on their behalf.

2.4 Guideline 4: currency of insurance

All registrants must ensure that they maintain current professional indemnity insurance for the entire period of registration. On application for renewal of registration, evidence of the following must be submitted:

- a copy of the Certificate of Currency or Schedule of Cover from the insurance company
- alternatively, a Confirmation of Cover from an insurance broker.

This evidence must contain the following information:

- name of the insurer
- policy number
- limit of indemnity a) for each and every loss and b) in the annual aggregate
- deductible(s) (excess)
- period of insurance.

On the request of the CMR Board, the practitioner must provide, within 14 days, the full policy wording to enable the CMR Board to determine whether an applicant has professional indemnity insurance that satisfies the CMR Board's requirements.

2.5 Guideline 5: run-off cover

All registrants must ensure appropriate provision of run-off cover for a minimum of 7 years should they cease to practice either for a short period or permanently, or change insurers. Some policies have run-off cover incorporated and registrants must ensure they meet the requirements for access to the run-off cover at the time they cease practice. In other cases registrants may need to maintain ongoing insurance.

The CMR Board's view is that a failure to arrange appropriate run-off cover amounts to unprofessional conduct and that Section 42(3) of the HPR Act enables the CMR Board to conduct or continue to conduct an investigation into the professional conduct of a person who has ceased to be a registered practitioner.

2.6 Guideline 6: seamless transition of cover if changing insurers

If a registered practitioner intends to change their insurer either during or after ceasing their practice, then they will require individual advice from the insurer, an insurance broker or advisor. This is to prevent the risk of any uninsured gaps occurring with the cover from the change of insurer.