



Tuesday 23rd December 2008

Chair, Health Workforce Principal Committee
Megan Cahill, HWPC Secretariat
Level 12/120 Spencer St
MELBOURNE, Vic 3000

Other Matters Submission, Attention: Practitioner Regulation

Dear Ms Cahill,

OTHER MATTERS FOR INCLUSION IN BILL B

The Chinese Medicine Registration Board (the Board/CMRB) thanks you for the opportunity to comment on this very important document. We are in general in agreement with much of the proposal and have not commented on every aspect but have selected some key issues to focus upon.

As a matter of practicality CMRB supports the principle that statutory provisions that allow a board greater flexibility to delegate, at its discretion, decision-making beyond the board itself, to committees and/or staff of the board.

With regard to proposal 3.5.4 that the legislation provide that a panel should not include any person who was a member of the board or committee that took the decision to refer the matter to the panel. It is possible to quarantine members from involvement in some matters and may be desirable to be in a position to appoint the board or committee's own members to "Disciplinary Panels" from the perspective of:

- Utilising Board member expertise in these important processes
- Providing opportunities to Board members for stimulating involvement in Board work
- Developing and maintaining Board members' understanding and appreciation of these processes and the consequential outcomes

CMRB has one concern/query with proposal 3.5.5 that where a board establishes any committee other than a statutory committee or panel, the composition is not prescribed in legislation but rather is a matter for the board to determine in line with any directions from Ministerial Council. Being bound to follow directions from Ministerial Council may be unnecessarily constraining in some circumstances.

CMRB supports the suggestion under section 4 that the process of selection and appointment of members who sit on 'statutory' committees or panels (and how this is reflected in legislation) may be different to the process for other committees that exercise powers under delegation or committees which are advisory only.

In proposal 3.6.1, CMRB disagrees with the proposal for a statutory limit on the length of time a practitioner's registration may be suspended without review by the board (or delegate of the board). Such matters need to be always carefully dealt with on a case-by-case basis.

With respect to advisory committees (4.1.1) the CMRB strongly supports the requirement for open and transparent processes, advises caution about seeking nominations from professional bodies, and suggests that appointments be possible for up to five years.

With regard to Interaction of the national scheme with other legislative schemes CMRB wonders about the impact of the Victoria Human Rights Charter in Victoria upon the scheme. In general this Board's position that as far as possible matters should be dealt with nationally although in some areas a state based approach is better. The CMRB in general supports the recommendations in para 5. With regard to 5.2.7 (statutory interpretation) the CMRB believes courts will be called upon to interpret the legislation in the various states and territories and obviously consistency is desirable. We understand the legislation will vary slightly between jurisdictions. An intention to apply a national statutory interpretation regime is desirable although we feel there may always be "gaps" which will be filled through the courts exercising their powers to interpret legislation. The scheme will require monitoring in this regard by a national committee or AHMAC with a view to co-ordinated legislative amendments being rapidly introduced as necessary.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Vivian Lin', is written over a printed name and title. To the left of the signature is a small, stylized handwritten mark that looks like 'for'.

Vivian Lin
President