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Submission to:

Practitioner Regulation Subcommittee of the Health Workforce
Principal Committee
NRAIP@dhs.vic.gov.au
25th September 2008

on

Intergovernmental Agreement for a National Registration and Accreditation Scheme for Health Professions

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INTRODUCTION

The Australian Natural Therapists Association Ltd (ANTA) acknowledges the initiative by the Commonwealth Government and the Council of Australian Governments in signing an Intergovernmental Agreement on the 26th March 2008 to establish a single national registration and accreditation scheme for the health professions.

ANTA has been invited to make a submission on the national registration and accreditation scheme for the consideration of health ministers.

The Australian Natural Therapists Association Ltd. (ANTA) submission will offer a condensed profile and history of the Association and put forward ANTA's position as supporting regulation of unregulated health professions.

The ANTA submission will address the six criteria developed for assessing the need for statutory regulation of unregulated health occupations and argue that although chinese medicine does not meet all of the six criteria, there is a need for a form of statutory regulation together with compulsory membership of a professional association, to ensure the consumer is at minimum risk and has access to an effective complaints handling mechanism.

The ANTA submission will address the required six criteria for assessing the need for statutory regulation of unregulated health professions as well as the following issues:

- **Issue 1:** Does public health and safety require the regulation of chinese medicine and other disciplines/modalities of complementary medicine?
- **Issue 2:** If regulation of chinese medicine and other disciplines/modalities of complementary medicine is adopted what grandparenting arrangements should be included.
- **Issue 3:** What mechanisms should be put in place for practitioners to either prescribe and/or dispense restricted herbs and to which practitioners would this apply?
- **Issue 4:** It is proposed that chinese medicine practitioners and other disciplines/modalities of complementary medicine should have qualifications that include first aid training or undertake separate approved first aid training.
- **Issue 5:** Rethinking Regulation

ANTA would like to offer brief comment and updates on a number of other matters relevant to the disciplines/modalities of complementary medicine:

It is currently voluntary to become a member of an association. This is accurate for all modalities with the exception of practitioners of acupuncture, naturopathy, chinese herbal medicine and western herbal medicine. Where a practitioner of one of these modalities requires GST free status after 1 July 2003, the practitioner is required to be a member of an association recognised by the Australian Taxation Office (ATO) as a 'professional association'.

ANTA also recognises that the majority of chinese medicine practitioners in Australia are represented by a small number of professional associations.

A multi-modality association, such as ANTA, provides an egalitarian representation of the profession, and offers an infrastructure which enables the association to encompass all aspects of the profession; representing the interests of the profession as a whole, individual disciplines/modalities, practitioners of all disciplines/modalities accredited by the association, and the health and safety of consumers of traditional medicine and natural therapy health services.

It is widely acknowledged, and ANTA agrees, that demand for information about complementary health generally has increased and is likely to continue to do so.

ANTA believes statutory regulation with the associations will facilitate national agency access to the practitioner stakeholders in the broader community of complementary medicine and enable the national agency to provide consumers with accurate information or the resource to obtain accurate information.

CONDENSED PROFILE AND HISTORY OF ANTA

ANTA is a major national association of professional complementary medicine practitioners including chinese medicine who work in the area of health care and preventative medicine.

ANTA is a multi-disciplinary/modality democratic association of practitioners, founded in 1955. ANTA provides an egalitarian representation of all disciplines/modalities including chinese medicine accredited by the association, possess an infrastructure which enables the association to encompass all aspects of the profession, represent the interests of individual disciplines/modalities, acts as advocate for more than 5,000 practitioners of all disciplines accredited by the association, and promotes the health and safety of consumers of natural therapy health services.

The natural therapy disciplines/modalities recognised and accredited by ANTA are listed as follows:

- Acupuncture**
- Aromatherapy**
- Ayurvedic Medicine**
- Chinese Herbal Medicine**
- Chiropractic/Osteopathy**
- Counselling**
- Homoeopathy**
- Musculoskeletal Therapy**
- Myotherapy**
- Naturopathy**
- Nutrition**
- Oriental Remedial Therapy**
- Remedial Massage Therapy**
- Traditional Chinese Medicine**
- Western Herbal Medicine**

ANTA recognises the need for minimum standards for the conduct and safety of natural therapy practitioners and addresses standards for conduct and safety through:

- The high standard of entry requirements for potential members
- Yearly review of entry standards to maintain currency and ensure relevance
- Active participation in setting standards at national and state levels via industry reference group and working committee participation
- Free student membership to the Association
- Yearly review of the courses on offer within the profession, and courses currently accredited by ANTA in accordance with international best practice
- Compulsory yearly proof of minimum continuing professional education requirements of members
- Provision of “free” continuing professional education seminars in all states of Australia
- Provision of additional avenues of continuing professional education for members
- Compulsory up-to-date senior first aid certificates
- Compulsory specialised professional indemnity and public liability insurance
- The Association enforces a strict Code of Professional Ethics
- The Association maintains effective public complaints handling and resolution mechanisms outlined in the Constitution
- The Association maintains a National Administration Office, which is open five days a week and staffed by an Executive Officer and fully trained support staff
- The Association maintains fully computerised membership, accreditation and course recognition databases and systems
- Provision of communication via the Members' page on the ANTA website of the most up-to-date information related to the profession
- Provision of regular Newsletters and ANTA e-News detailing information of current interest to the profession
- Provision of a Professional Publication ‘The Natural Therapist’, four times a year offering the latest information available on topics of interest to the profession
- Provision of an ANTA website to allow interested persons and consumers to obtain information about the Association, natural therapies and traditional medicine and the location of accredited practitioners of the Association
- Provision of the latest up-to-date scientific information and monographs including:
 - 300 Herbs
 - 350 Diseases & Conditions
 - 250 Supplements
 - Herb – Drug Interaction Guide
 - Supplement – Drug Interaction Guide
 - Treatment Options
 - Organ & Body Systems
 - Drug Induced Depletions
 - Evidenced Based & Peer Reviewed Information
- Provision of funding grants for research into traditional medicine and natural therapies

- Provision of annual ANTA Student Bursary Awards totalling \$10,000 p.a. to encourage excellence in the study of traditional medicine and natural therapies
- Setting of standards for clinics, hygiene and infection control
- Setting of standards for skin penetration
- Setting of standards for keeping and maintaining patient records
- Making public the requirements for recognition of traditional medicine and natural therapy courses by ANTA for membership purposes
- Making public, details of natural therapy courses recognised by ANTA for membership purposes
- Only recognising government accredited courses that meet ANTA's stringent requirements (note - ANTA does not recognise courses delivered totally by distance education)
- Making public details of ANTA membership criteria and qualifications
- Consultation with Members on matters of importance. The Association uses the Members' web page, consultation meetings, newsletters, ANTA e-News and the magazine to consult with Members
- A '1800' free-call number promoted to consumers and practitioners, facilitating a direct path of communication with the Association's national administration office staff
- A '1800' free-call number and web page promoted to consumers and practitioners, to identify appropriately qualified practitioners in the consumer's geographical area
- Undertaking ongoing internal audits of its policies and processes of operation and all matters to do with professional practice
- External audits of procedures, policies & processes to ensure compliance with the principles of best practice
- Publishing an Annual Report on the activities and performance of the Association
- Undertaking a yearly audit of its Constitution which includes the Association's Complaints, Ethics & Disciplinary Panels
- Undertaking a yearly audit of its Code of Professional Ethics
- Ongoing consultation and collaboration with other professional associations
- Ongoing dialogue and correspondence with ministers, government departments and regulatory bodies
- Ongoing research of policies in overseas professional associations and policies of overseas governments
- Maintaining a Natural Therapy Adverse Events Register
- On-line polling of Members and the Public on relevant professional and health issues
- Democratic voting system for the election of directors by members

ANTA is governed by a National Council [Board of Directors] who are elected by the Members of the Association for a term of 3 years. The Council in turn elect all office bearing positions within the Association, which are for a term of 1 year.

National Council is supported by the services of an Executive Officer, Company Secretary and National Administration Office Staff. These positions are salaried.

ANTA engages and appoints consultants and advisors to provide expertise and advice in all areas (Consumer Law, Company Law, Research, Complaints Resolution, Business Operations, Tax/Accounting etc) required to operate a successful professional association.

CRITERIA FOR ASSESSING THE NEED FOR STATUTORY REGULATION OF UNREGULATED HEALTH OCCUPATIONS:

Criterion 1: *Is it appropriate for Health Ministers to exercise responsibility for regulating the occupation in question, or does the occupation more appropriately fall within the domain of another ministry ?*

All of the natural therapy disciplines/modalities are directly related to health services:

- The disciplines have a primary clinical focus and are involved with preventative medicine.
- Some natural therapies, including chinese medicine, involves the use of internally administered therapeutic goods.
- Acupuncture practice uses a therapeutic device in the form of needles.
- Many massage therapies use essential oils topically as part of the therapeutic treatment.
- Most natural therapies, including chinese medicine practices, are eligible for rebates from a large number of health funds.
- The education of natural therapies, including chinese medicine, involves training in the biomedical and health sciences.
- The major associations that accredit natural therapies, including chinese medicine practitioners, are listed in Schedule 1 of the *Therapeutic Goods Regulations 1990* (Cth). The Regulations are administered by the Therapeutic Goods Administration, Commonwealth Department of Health and Ageing.
- All therapeutic goods and devices used (?by or in) natural therapy medicine (?practitioners), including chinese medicine (?practitioners), must be either listed or registered on the Australian Register of Therapeutic Goods, which is administered by the Therapeutic Goods Administration (TGA). The Parliamentary Secretary to the Commonwealth Minister of Health and Ageing is responsible for the activities of the TGA.

ANTA is of the opinion that the activities of the natural therapy disciplines/modalities accredited by ANTA, including chinese medicine, fall directly within the domain of the Health Minister.

Criterion 2: *Do the activities of the occupation pose a significant risk of harm to the health and safety of the public ?*

The practices of the natural therapy disciplines/modalities accredited by ANTA, including chinese medicine, do not pose a significant risk to either its users, the wider public or to its practitioners.

In health care practice, an element of risk to the patient is always present. However the crucial point is whether this risk is significant or not. The natural therapy disciplines/modalities accredited by ANTA, including chinese medicine, when practised by a person with recognised qualifications does not pose a significant risk of harm to the health and safety of the public for the following reasons:

- The natural therapy disciplines/modalities accredited by ANTA, including chinese medicine, do not use any equipment, materials or processes, which pose a significant risk to the public.
- Practitioners accredited in the natural therapy disciplines/modalities accredited by ANTA, including chinese medicine, are not permitted to use any substance which is in either Schedule 1,2, 3 or 4 of the *Standard for the Uniform Scheduling of Drugs and Poisons*.
- All therapeutic goods utilised by natural therapy practitioners accredited by ANTA, including chinese medicine practitioners, are either listed or registered on the Australian Register of Therapeutic Goods. This ensures that the quality and safety of the therapeutic goods have been assessed by Commonwealth health regulators in the pre-marketing stage.
- Equipment used in the natural therapy disciplines/modalities accredited by ANTA, including chinese medicine, don't contain or emit radioactive or dangerous substances.
- Equipment used in the disciplines/modalities accredited by ANTA, including chinese medicine, must be listed on the Australian Register of Therapeutic Devices.
- No invasive techniques are used by chinese medicine or natural therapy practitioners.
- There is no potential for the work of chinese medicine or natural therapy practitioners to cause damage to the environment.
- The number of complaints received by the Office of Health Review in WA, the Health Care Complaints Commission in NSW and the Chinese Medicine Registration Board of Victoria against the services of natural therapists (includes chinese medicine) is very low as demonstrated by the summary of complaints in the charts below .

Summary of Complaint information published by the Office of Health Review WA in Annual Reports for the years 2003 - 2007

<i>Year</i>	<i>Total Number of Complaints</i>	<i>Number of Complaints Against All Alternative Health Services (incl. Chinese medicine)</i>	<i>% of Alternative Health Services Complaints Compared to Total Complaints</i>
2003 – 2004	1718	3	0.17%
2004 – 2005	1802	13	0.72%
2005 – 2006	1560	7	0.45%
2006 - 2007	1548	2	0.13%
Total	6628	25	0.38%

Note: The information provided in the Office of Health Review Annual Reports WA does not break down the total number of complaints relating to Alternative Health Services into the large number categories Alternative Health Services covers. The number of complaints

received by the Health Care Complaints Commission in NSW to a certain extent breaks down the complaints received into broad categories for natural therapies (incl. chinese medicine)

Summary of Complaint information Published by Health Care Complaints Commission NSW in Annual Reports for the years 2002 - 2007

<i>Year</i>	<i>Total Number of Complaints</i>	<i>Number of Complaints Against Natural Therapy Services</i>	<i>% of Natural Therapy Complaints Compared to Total Complaints</i>
2002 – 2003	2714	9	0.33%
2003 – 2004	2811	13	0.46%
2004 – 2005	2816	13	0.46%
2005 – 2006	3023	15	0.49%
2006 – 2007	2722	5	0.18%
Total	14086	55	0.39%

Note: The complaints in the above tables for complementary medicine covers all disciplines and the number relating specifically to chinese medicine although not available would be even smaller and be between 0.3% & 0.1% of complaints received.

Submission by the Health Care Complaints Commission (HCCC) to the Joint Parliamentary Committee Inquiry into Traditional Chinese Medicine in NSW held on the 31st August 2005:

The submission by the HCCC to the public inquiry on Traditional Chinese Medicine held in NSW on the 31st August 2005, stated the number of complaints received by the HCCC between July 2000 and June 2005 was very low (a total of 17 complaints were received during this period)

The HCCC in its submission stated that it supports the regulation of practitioners of Traditional Chinese Medicine and Acupuncture in NSW. The HCCC also stated in its submission that its preferred model of regulation is co-regulation by the HCCC and a registration board.

Summary of Complaints published by the Chinese Medicine Registration Board CMRB (Victoria):

The Annual Reports published by the CMRB in Victoria highlights the following number of complaints received from consumers for the years 2002 - 2007

<i>Year</i>	<i>Number of Consumer complaints received</i>	<i>Annual CMRB Registration Fees & Income</i>
2002/2003	1	\$400,781
2003/2004	5	\$274,183
2004/2005	8	\$497,135
2005/2006	6	\$412,052
2006/2007	8	\$462,943

The type of Complaints received by the CMRB (Vic) from consumers covered the following issues: Advertising, Receipts, Poor Outcome, Misconduct, Adverse Reactions, and Dispensing.

ANTA has concerns the administrative process and registration fees/income of the CMRB (Vic) is completely disproportionate to the relatively small number of complaints and type of complaints received from the public.

ANTA has concerns that the high registration fees paid by practitioners to the CMRB (Vic) are ultimately passed onto the consumer by way of increased consultation fees.

ANTA believes the CMRB (Vic) as the regulatory body for chinese medicine in Victoria should be fully re-assessed using a cost benefit framework which includes analysis of compliance costs and risks.

ANTA believes that if the CMRB (Vic) is to continue to operate it should reduce its registration fees to an amount that is proportionate to the very small number of complaints lodged by the public. ANTA recommends the registration fees charged by the CMRB (Vic) should be reduced between 50% - 75% immediately.

Criterion 3: *Do existing regulatory or other mechanisms fail to address health and safety issues?*

ANTA believes current regulatory agencies address the health and safety issues of natural therapies, including chinese medicine, which would be further enhanced with the introduction of a model of Meta Regulation with compulsory membership of a professional association.

- The Commonwealth Therapeutic Goods Legislation - all of the therapeutic goods and devices used by traditional medicine and natural therapy practitioners are covered by the Therapeutic Goods Administration (TGA).....adequately addresses the issues.
- Complementary Medicines Evaluation Committee - part of the Office of Complementary Medicines - specifically deals with 'complementary medicines' and is located within the Therapeutic Goods Administration.....adequately evaluates the issues.
- National Drugs and Poisons Schedule Committee - responsible for the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) which lists herbal medicines, nutritional supplements, essential oils and homoeopathic medicines considered to be unsafe for general use in one of the Schedules or Appendices of the SUSDP.....adequately addresses the issues.
- State Criminal Law - adequately covers any serious misconduct that could potentially arise from the clinical activities of natural therapy practitioners.....adequately addresses the issues.
- State Health Complaints Offices provide a readily accessible means of having complaints reviewed, conciliated and dealt with impartially and in confidence.

Criterion 4: *Is regulation possible to implement for the occupations in question?*

In relation to all unregulated health professionals, including chinese medicine practitioners, the New South Wales government has made the following Regulation under the *Public Health Act 1991*:

Public Health (General) Amendment Regulation 2008:

- The Regulation commenced on 1st August 2008
- The Regulation amends the Public Health (General) Regulation to prescribe a code of conduct which is set out in Schedule 3 under section 10AM of the Act as a code of conduct for the provision of health services by:
 - a. health practitioners who are not required to be registered under a health registration Act (including de-registered health practitioners), and
 - b. health practitioners who are registered under a health registration Act who provide health services that are unrelated to their registration.
- Section 7 of the *Health Care Complaints Act 1993* specifically provides that a complaint may be made under that Act against a health practitioner in relation to an alleged breach of the code of practice.

The type of regulation introduced for unregistered practitioners by the NSW Government in August 2008 does not require practitioners to pay any fees and will not result in increased consultation fees being passed onto the public.

ANTA had significant input during the consultation phase in the development of the regulation and is interested to see over time how effective this type of regulation is for unregistered professions.

Criterion 5: *Is regulation practical to implement for the occupation in question?*

ANTA recommends the Practitioner Regulation Subcommittee of the Health Workforce Principal Committee considers adopting a Meta Regulation model as outlined in the following document:

Braithwaite, J., Healy, J., Dwan, K., The Governance of Health Safety and Quality, Commonwealth of Australia, 2005 ‘copyright Commonwealth of Australia reproduced by permission’

Extracts from the document state:

“Significant system and cultural change is necessary if Australia’s health care system is to continue to produce safe, high quality health care.”

“Throughout the Australian health care system, governance action should be directed towards ensuring that each organisation and individual is actively engaged in comprehensive processes of systems review, risk management and systems improvement. Concerted and coordinated action involving each element of the health care system is required – from individual clinicians, through to health care organisations and jurisdictions.”

“Where a self-regulated health care system is effective in achieving safe, high quality care, it should be supported. Where active regulatory strategies are necessary, they should be designed to establish conditions that are conducive to, and foster, good governance at the appropriate level in the system so that responsibility and accountability can be maintained.”

Meta Regulation

“We argue that the idea of responsive regulation offers a productive framework for choosing regulatory approaches that can escalate upwards as required from soft to hard instruments. We consider the promise of a networked governance as opposed to top down government action. While there is certainly a place for the direct enforcement of rules, we argue for the addition of Meta-Regulation where the conduct of self-regulation is monitored by an external third party. This approach ensures that health care providers have effective safety and quality programs in place and also promotes an expectation of continuous improvement and a culture of safety.”

“Meta Regulation involves an external regulatory body ensuring that health care providers implement safety and quality programs and practices.”

“In a world of networked governance, it is imperative that organisations not only manage their own risks, but also manage how their partners manage their risks. This calls for the external evaluation of an organisation’s self-evaluation of its safety and quality systems. “We argue that health and safety and quality research must be jolted out of its overwhelmingly internal preoccupation with behavioural change within health service organisations, and among individual health professionals.”

“We have explored the possibilities for getting things done through networked governance rather than government planning that stands aloof from partnership. Meta-regulatory strategies for externally regulating internal self-regulation are seen as especially fertile for research.”

ANTA believes the natural therapy profession, including chinese medicine, is particularly suited for regulation under a Meta Regulation model.

Criterion 6: *Do the benefits to the public of regulation clearly outweigh the potential negative impact of such regulation?*

ANTA believes a Meta Regulatory model operated in conjunction with natural therapy professional associations would offer benefits to the public such as effective and ongoing quality and safety programs not available under the negative impact of current regulatory models.

ISSUES ANTA WISHES TO HIGHLIGHT FOR COMMENT

Issue 1: *Does public health and safety require the statutory regulation of natural therapy practitioners including chinese medicine practitioners?*

ANTA does not believe the health and safety for the health care consumer is at risk from the services and practitioners of natural therapies, including chinese medicine. As the figures from the Office of Health Review, NSW Health Care Complaints Commission, Chinese Medicine Registration Board of Victoria show, the complaint numbers from the public are very low against both services and practitioners.

Despite the very low number of complaints against providers of, and services in, natural therapies, including chinese medicine, ANTA believe the health care consumer requires the protection and benefits of a Meta Regulation system operated in conjunction with professional associations.

In August 2008, the NSW Government decided to introduce a non statutory system of regulation for unregistered practitioners including natural therapists. The non-statutory system of regulation has been just introduced throughout NSW and how effective this system is in providing public health and safety will be determined in the future.

Which practitioners should be regulated?

ANTA, as advocate for over 5,000 natural therapists, including chinese medicine practitioners, supports the regulation of natural therapy and chinese medicine disciplines under a Meta Regulation model, with the exception of Chiropractic and Osteopathic, which are currently registered. The recognised natural therapy disciplines of ANTA are as follows :

Acupuncture
Aromatherapy
Ayurvedic Medicine
Chinese Herbal Medicine

Counselling
Homoeopathy
Musculoskeletal Therapy
Myotherapy
Naturopathy
Nutrition
Oriental Remedial Therapy
Remedial Massage Therapy
Traditional Chinese Medicine
Western Herbal Medicine

ANTA believes a Meta Regulatory model will provide proactive, cost effective ongoing quality and safety programs for the public as opposed to current expensive reactive regulatory models.

ANTA supports the introduction of Meta Regulation for chinese medicine and the other natural therapy disciplines/modalities accredited by ANTA. A paper prepared by ANTA in support of Meta Regulation is included at the end of this submission.

Despite the low number of complaints against providers of, and services in, chinese medicine and natural therapies, ANTA believe the health care consumer requires the protection of Meta Regulation of chinese medicine to provide a clear identification of practitioners who:

- possess professionally accepted qualifications in chinese medicine,
- provide evidence of minimum yearly ongoing professional education,
- provide evidence of up-to-date professional indemnity insurance,
- provide evidence of up-to-date first aid training, and
- adhere to a strict code of professional ethics.

Issue 2: *If registration of Chinese Medicine and other natural therapies is adopted on a national level, what grandparenting arrangements should be included.*

ANTA recommends the following grandparenting arrangements:

- equity for practitioners who, immediately before the commencement of any new Act, ordinarily practise in one of the disciplines regulated, and who may have a mix of qualifications and experience in practice which should be recognised under registration arrangements;
- a transitional period of 5 years for practitioners who have limited experience in practice and do not fit the registration arrangements, but are offered pathways to upgrade their qualifications;

- the timeframe for the upgraded qualifications is 5 years as the Survey Data of the Australian Natural Therapists Association reveals that 77% of practitioners of acupuncture, naturopathy and herbal medicine (chinese and western) earn less than \$50,000 per annum with 57% of practitioners earning less than \$30,000 per annum. Based on the survey, it would be presenting practitioners with undue hardship to be asked to finance the costs of further education over a shorter period of time.

The following future qualification and timeframe requirements for practitioners to be regulated are guided by the national Complementary and Alternative Health Training Packages 2007 (HLT07), and it is believed the timeframe and qualification requirements would be satisfactory for regulation requirements.

1 st July 2010 – 30 th June 2013	Practitioners to be a member of a professional association and hold a qualification of a recognised diploma, recognised advanced diploma or recognised degree (depending on discipline/modality).
1 st July 2013 – 30 th June 2015	Practitioners to be a member of a professional association and hold a qualification of a recognised advanced diploma or recognised degree (depending on discipline/modality).
1 st July 2015 -	Practitioners to be a member of a professional association and hold a qualification of recognised degree (depending on discipline/modality).

Issue 3: *What mechanisms should be put in place for practitioners to either prescribe and/or dispense restricted herbs and to which practitioners would this apply ?*

The Meta Regulation model provides a mechanism for the recognition and accreditation of suitably trained practitioners in ingestive modalities who have been trained in the traditional and efficacious use of herbal remedies.

Professional Associations in conjunction with the Therapeutic Goods Administration and manufacturers of herbal medicines could develop a schedule of herbs to be prescribed and dispensed by regulated practitioners.

The practitioners to whom these mechanisms could apply would be :

Chinese Medicine practitioners

as well as:

Aromatherapy practitioners

Ayurvedic Medicine practitioners

Naturopathy practitioners

Western Herbal Medicine practitioners

**Homoeopathy practitioners
Nutritional Medicine practitioners**

Issue 4: ANTA proposes that natural therapy practitioners including chinese medicine practitioners should have qualifications that include first aid training or undertake separate approved first aid training. This is not a requirement of other registered health professions. Should this be implemented for complementary health practitioners, which professions should be included, why or why not ?

ANTA has in place requirements that practitioner members must have current senior first aid qualifications.

ANTA operates a sophisticated database supported by systems and procedures to ensure member practitioners have in place current first aid qualifications and professional indemnity insurance at all times.

Two basic reasons why current senior first aid qualifications are included in the qualifications of practitioner of traditional medicine are:

- it is a pre-requisite to obtaining professional indemnity insurance for all practitioners,
- it is a requirement of health funds that practitioners have current first aid qualifications to be recognised as providers.

ANTA supports the requirements of up-to-date senior first aid skills for practitioners. It is believed these skills are necessary due to the fact the disciplines have a primary clinical focus whereby practitioner consult with the public on a day to day basis, and are not trained in any other form of emergency situation procedures.

Issue 5: *Rethinking Regulation*

ANTA believes the Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions provides an exceptional opportunity for Federal and State Governments to “Rethink Regulation”.

In January 2006 the Regulation Taskforce prepared a report on reducing regulatory burdens on business:

Regulation Taskforce 2006, *Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, Report to the Prime Minister and the Treasurer*
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ANTA recommends the Health Workforce Principal Committee and Health Ministers take into consideration the recommendations of the report.

Extracts from the report state:

“Regulation has come to be seen as a panacea for many of society’s ills and as a means of protecting people from inherent risks of daily life. Any adverse event – especially where it involves a loss of life, possessions, amenity or money – is laid at government’s door for a regulatory fix.”

“In responding to such pressures, governments themselves are often attracted to regulatory solutions, both as a tangible demonstration of government concern and because the costs are typically ‘off budget’, diffuse and hard to measure. Moreover, each regulatory solution tends to be devised within individual governmental agencies. Within such policy ‘silos’ the cumulative impact of regulation across government is poorly understood and rarely taken into account.”

“In this climate a ‘regulate first ask questions later’ culture appears to have developed. Even where regulatory action is clearly justified, options and design principles that could lessen compliance costs or side-effects appear to be given little consideration. Further, agencies responsible for administering and enforcing regulation have tended to adopt strict and often prescriptive or legalistic approaches, to lessen their own risks of exposure to criticism. This in turn, has contributed in some areas to excessively defensive and costly actions by business to ensure compliance.”

Principles of good regulatory process

“In the taskforces view, good regulatory process requires governments to apply the following six principles:

- *Governments should not act to address ‘problems’ through regulation unless a case for action has been clearly established. This should include evaluating and explaining why existing measures are not sufficient to deal with the issue.*
- *A range of feasible policy options – including self regulatory and co-regulatory approaches – need to be assessed with a cost benefit framework (including analysis of compliance costs and where relevant, risk)*
- *Only the option that provides the greatest net benefit to the community, taking into account all the impacts, should be adopted.*
- *Effective guidance should be provided to regulators and regulated parties to ensure the policy of intent of the regulation is clear, as well as what is needed to be compliant.*
- *Mechanisms such as sunset clauses or periodic reviews need to be built into legislation to ensure that regulation remains relevant and effective over time.*
- *There needs to be effective consultation with regulated parties at the key stages of regulation making and administration.”*

Better analysis and consultation

“The taskforce supports the government’s recent decision to require more rigorous cost-benefit analysis of regulatory proposals. This should be extended to different options and include quantification of compliance costs and analysis of risk where relevant”.

Health-related Regulation

“The community looks to the health system to provide a safe and healthy environment; prevent avoidable disease and injury; provide accessible and affordable care in times of illness; safe, effective and affordable medicines; and access to long-term care services as people become vulnerable with age.”

“There is also the expectation that the cost of health services, currently around 10% of gross domestic product and growing, will be contained within reasonable bounds and not become an undue burden on taxpayers, private health insurance premiums or co-payments for services.”

“The degree to which government should take responsibility, and how it is exercised, is an ongoing tension in all health systems. Service providers and insurers argue that regulation limits their ability to innovate or provide services efficiently. Everyone argues about the cost of government regulation.”

“Regulation is therefore a focal point for consumers, providers and government.”

“While concerns were wide ranging, reflecting the diversity of the health system, concerns about over-regulation, inadequate consultation by regulators, limited understanding of the impact of regulatory requirements at the coalface, and poor coordination of regulatory activity apply across the system.”

EXECUTIVE SUMMARY

ANTA supports regulation of natural therapies, including chinese medicine, the preferred model being Meta Regulation in conjunction with professional associations. It is believed this model with its restrictions on title would provide:

- an effective structure for public health and safety,
- ongoing quality and safety programs,
- equity and transparency for practitioners of natural therapies, including chinese medicine, and
- a cost-effective model for the government, the practitioner and the public.

ANTA does not believe the health and safety of the health care consumer is at risk from the *substances* or *techniques* of natural therapies, including chinese medicine. This is supported by the public complaints figures from the WA Office of Health Review, NSW Health Care

Complaints Commission and the CMRB (Vic) included with this submission which show the complaint numbers were very low against both services and practitioners.

ANTA supports a Meta regulation system which provides equity and transparency for the practitioners of chinese medicine, in addition to the above health and safety mechanisms for the consumer.

As evidenced in the Chinese Medicine Registration Board of Victoria statistical data shown in tables in this submission and because of the relatively low numbers of natural therapists, including chinese medicine practitioners, the cost of a solely government established and maintained system of regulation has resulted in significantly high registration fees for practitioners which are passed onto consumers in the form of higher consultation fees. The high cost and low numbers of complaints is a feature of the Chinese Medicine Registration Board of Victoria model of regulation.

A cost-effective regulation model that provides ongoing quality and safety programs is important to the consumer. The natural therapy professions, including chinese medicine, are not high income bracket professions [product sales at retail outlets are not part of the professions]. A cost-effective regulation model therefore becomes a very important consideration in enabling the practitioner to offer services at an affordable cost to the consumers of natural therapies, including chinese medicine.

The Practitioner Regulation Subcommittee of the Health Workforce Principal Committee is asked to consider ANTA's submission in support of a Meta Regulation model in conjunction with professional associations, and the accompanying 'restriction of title', for the following disciplines accredited by ANTA, which except for acupuncture and chinese herbal medicine in Victoria and all natural therapists including chinese medicine practitioners in NSW are currently not regulated:

- Acupuncture**
- Aromatherapy**
- Ayurvedic Medicine**
- Chinese Herbal Medicine**
- Counselling**
- Homoeopathy**
- Musculoskeletal Therapy**
- Myotherapy**
- Naturopathy**
- Nutrition**
- Oriental Remedial Therapy**
- Remedial Massage Therapy**
- Traditional Chinese Medicine**
- Western Herbal Medicine.**

ANTA would like to thank the Health Workforce Principal Committee for the opportunity to lodge this submission and ANTA offers to make directors and members available, together

with support staff, for any further consultation that may be of assistance to the regulation of practitioners of natural therapists, including chinese medicine.

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APPENDIX A:

ANTA Supports the introduction of Meta Regulation:

Meta Regulation

Meta Regulation is based around government regulating constant quality improvement and quality processes of organisations/bodies.

Meta Regulation involves a process where all stakeholders involved in an adverse event have an opportunity to resolve on an equal basis, what can be done to rectify the harm and needs of those affected and to prevent recurrence of the adverse event. Organisations/Bodies under a Meta Regulation model are required to constantly work on processes and improvements to deliver quality outcomes for the parties involved.

Meta Regulation is about rule enforcers being responsive to the needs of participants and determining what intervention is required in a situation or adverse event. Meta Regulation is based on developing solutions to issues, problems and risk management to achieve win-win outcomes rather than taking an after-the-fact adversarial approach resulting in losers or a winner and a loser.

The focus of Meta Regulation is on rule enforcers ensuring organisations/bodies are constantly working on the 'front end' to ensure attention is given to developing ongoing quality outcomes and putting in place quality processes to ensure adverse events are approached from a continuous quality improvement direction.

Meta Regulation is focused on prevention as opposed to current regulatory approaches which are adversarial in nature usually resulting in after-the-event costly legal challenges.

Funding provided by current regulatory systems is used in dispute resolution resulting in lose-lose or win-lose outcomes. Meta Regulation focuses using funding for dispute prevention and win-win outcomes which is a more effective and efficient use of regulatory funds.

Current regulatory processes do not focus on implementing continuous quality programs and do not deliver continuous quality improvements resulting from adverse events.

Meta Regulation can deliver greater information and detail about adverse events or situations which provides the basis for constant quality improvements and processes.

Under a system of Meta Regulation protection of title can be legislated and public safety supported by evidence of mandatory continuous quality improvement reporting by organisations to a government agency. Organisations that do not show evidence of continual quality improvement would be subject to legislative consequences and fines.

ANTA believes protection of the public is best secured by the provision of constant quality improvement processes under a responsive Meta Regulation system rather than current regulatory models that only seeks to punish the party at fault in the event of an adverse event.

Meta Regulation of the complementary medicine professions would focus on prevention, be responsive to the needs of the public and deliver constant quality improvement. Meta regulation with a disputes resolution mechanism will also focus on resolving disputes to achieve a win–win outcome rather than escalating them to a legal or formal process to achieve a lose–lose or a win–lose outcome. Regulatory funds under a Meta Regulatory model would be used to greater efficiency and deliver continuous quality improvement.

Meta Regulation was discussed and put forward at the Australian Health Summit 2006 held in Melbourne in July 2006 by Professor Bruce Barraclough AO, Chair, Clinical Excellence Commission, President elect of the International Society for Quality in Health Care as the preferred model for regulating health care in Australia.

ANTA believes the public safety and professions would be better served under a statutory regulatory model that embraces the concept of Meta Regulation.

ANTA recommends Federal and State Governments adopt a Meta Regulation model for the regulation of complementary medicine, including chinese medicine.