

Attachment B: Statement of assessment against Ahpra's Procedures for the development of registration standards, codes and guidelines

Proposed revised Guidelines on patient health records

The Australian Health Practitioner Regulation Agency (Ahpra) has *Procedures for the development of registration standards, codes and guidelines*, which are available at: <https://www.ahpra.gov.au/Resources/Procedures.aspx>

Section 25 of the Health Practitioner Regulation National Law as in force in each state and territory (the National Law) requires Ahpra to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice.

Below is the Chinese Medicine Board of Australia (the Board) assessment of their proposal to revise the *Guidelines on patient health records* (the proposed revised Guidelines) against the three elements outlined in the Ahpra procedures.

- 1. The proposal takes into account the objectives and guiding principles in the National Law (sections 3 and 3A) and draws on available evidence, including regulatory approaches by health practitioner regulators in countries with comparable health systems**

National Board assessment

The Board proposal takes into account the National Scheme's paramount principle of protecting the public and maintaining public confidence in the safety of services provided by health practitioners by ensuring that the records kept by Chinese medicine practitioners are of a suitable standard to ensure continuity of care. The proposed revised guidelines, for the first time, include the requirement that all Chinese medicine practitioners will be required to make health records in English. This will improve public safety by ensuring better continuity of care for patients.

The proposed revised guidelines also support the National Scheme to operate in a transparent, accountable, efficient, effective and fair way by clearly setting out the requirements for patient health record making for the Chinese medicine profession.

The Board has drawn from the available evidence to inform the review.

- 2. Steps have been taken to achieve greater consistency within the national scheme (for example, by adopting any available template, guidance or good practice approaches used by national scheme bodies), and the consultation requirements of the National Law are met**

National Board assessment

The review of the *Guidelines on patient health records* has been informed by the [shared Code of Conduct](#) and guidance documents and tools for other professions regulated under the National Scheme.

The National Law requires wide-ranging consultation on the proposed standards, codes and guidelines. The National Law also requires National Boards to consult each other on matters of shared interest.

An eight-week preliminary consultation was undertaken as the first step in the consultation process. The Board considered all feedback and, due to the majority support of the proposed revised Guidelines, decided to proceed to public consultation.

While almost all responses to the preliminary consultation were positive about the proposed revised guidelines, there were several comments that the Board had to address further. The majority of these comments are addressed in the public consultation paper. The Board is also using the public consultation to test the proposed revised guidelines on a wider audience.

3. The proposal takes into account the principles set out in the Ahpra procedures

A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

National Board assessment

The Board considers that this proposal is the best option for achieving public safety, high quality and professional practice and regulatory effectiveness. The position of the Board is that there is currently a risk to public safety due to some patient health records not being made in English, and that all health records should be made in English for the greater safety of patients in the event of an emergency and for continuity of care.

Approximately 85% of registered Chinese medicine practitioners do not have English language conditions on their registration. For this cohort, the Board's proposed changes to the current guidelines currently would have little impact. As these practitioners are currently making records in English, the proposed changes are minor editorial changes to improve readability and clarify current requirements, with no significant change to current practice and requirements.

Approximately 15% of registered Chinese medicine practitioners do have English language conditions on their registration. The Board acknowledges that there may be a considerable impact on this cohort. The guidelines currently in effect contain an exception that permits them to make records in a language other than English, other than important identification and emergency contact information. This is the second review of these guidelines since they first came into effect in July 2012, during which time the exception for practitioners with English language conditions has been maintained. The Board has always been mindful that it needs to manage the continuation of 'grandparented' practitioners, with English-language-related conditions of registration, in a reasonable way. Throughout each of the consultations on these guidelines, the Board has foreshadowed that it would continue to review its position on making health records in languages other than English, noting its preference for guidelines that more closely align with the National Scheme.

Patient health records are legal documents; an adequate record of every patient consultation is an essential part of competent Chinese medicine practice as per the [Professional capabilities for Chinese medicine practitioners](#). Good patient health records facilitate high-quality and comprehensive care by making detailed and relevant information available to any treating practitioners. The Board is cognisant that the exception of English language in the guideline currently in effect has the potential to impact on continuity of care. For example, if another health practitioner is required to unexpectedly assume the care of a patient. The Board also considered that grandparenting arrangements in the National Law for practitioners ended in 2015, nine years ago. Since the end of grandparenting arrangements, all applicants for registration have been required to meet the English language standard, and they therefore have the competence to retain health records in English.

The Board understands that many of this cohort may have concerns about the impact of the proposed revised guidelines, should they proceed to take effect, on their practice. To this end, the Board is proposing the following factors to mitigate the impact on these practitioners:

- i. The proposed revised guidelines proposes that these practitioners have a period of transitional arrangements wherein practitioners may continue to make records in a language other than English but must translate these records into English within a set timeframe of their creation. The period of transitional arrangements would be to give sufficient time for affected Chinese medicine practitioners to prepare to make records in English. The Board is testing the arrangements at public consultation.
- ii. The Board is keen to explore what resources can be developed to support impacted practitioners and has included a question on this in the public consultation.

B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

National Board assessment

The Board considered whether its proposals could result in an unnecessary restriction of competition among health practitioners. The proposal is not expected to impact on the current levels of competition among health practitioners as the proposed revised guidelines would apply to all Chinese medicine practitioners and provide greater alignment with requirements of other National Boards regarding patient health records. Registered Chinese medicine practitioners are expected to comply with their own state and territory laws relating to patient health records, as they may have specific requirements. The proposed revised guidelines provide specific guidance for the profession about the Board's expectations.

C. Whether the proposal results in an unnecessary restriction of consumer choice

National Board assessment

The Board considers that the proposal would support consumer choice, by establishing clear standards for competent and safe clinical practice and by ensuring continuity of care between registered Chinese medicine practitioners.

D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

National Board assessment

The Board has considered the potential costs and benefits associated with the proposed revised guidelines to members of the public, registrants and governments and currently has the view that the benefits to the safety of the public outweigh the impacts on the cohort of practitioners with English language conditions on their registration. The Board will review all feedback and, where necessary, re-evaluate the costs and benefits following the public consultation.

The proposed revised guidelines largely reflect the current practice for the majority of Chinese medicine practitioners. The proposed revised guidelines are expected to provide clearer guidance on making good patient health records and facilitate high-quality and comprehensive care by including detailed and relevant information.

For the small cohort of Chinese medicine practitioners who currently keep records in a language other than English, the proposed period of transitional arrangements is expected to provide sufficient time for them to move to keeping records in English. The Board is also exploring resources to support these practitioners if the proposed revised guidelines take effect.

While the Board anticipates there to be minimal other cost impacts, this will be tested further during public consultation.

- E. Whether the proposal's requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants**

National Board assessment

The Board is committed to a plain English approach that will help practitioners and the public understand and apply the requirements of the proposed revised guidelines. The Board has included a question in the public consultation on the clarity of the proposed revised guidelines and will be guided by stakeholder feedback on this.

- F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time**

National Board assessment

Should the proposed revised guidelines proceed to publication, the Board has procedures in place to support a review of them at least every five years.

The Board may choose to review the proposed revised guidelines earlier, in response to any issues that arise or new evidence that emerges, to ensure its continued relevance and workability.