



## Chinese Medicine Council of New Zealand

### Consultation Outcomes: Proposed amendments to APC fees

In November 2023, the Chinese Medicine Council of New Zealand (The Council) published a consultation document setting out proposed APC fees due for 2024/25 in accordance with section 130 of the Health Practitioners Competence Assurance Act 2003 (the HPCA Act).

This report provides a summary of the key themes of the consultation feedback, and the Council's final decision.

The Council extends its thanks and appreciation to the individuals and groups who provided feedback.

### Consultation Overview

Consultation respondents were asked to provide their feedback via email. There were no specific questions provided to submit on.

19 submissions were received, from:

- Acupuncture New Zealand
- Individual Chinese medicine practitioners
- New Zealand Acupuncture Standards Authority
- New Zealand Register of Traditional Chinese Medicine Practitioners.

### Results

The following summarised comments were submitted by respondents:

- It is unfair that practitioners are being forced to pay two sets of APC fees for 2023 and now 2024 due to the ACC regulations not yet being changed.
- The APC fee is too high for someone starting out in a new business, with all the overheads this comes with.
- The consultation document acknowledges that initial registrant numbers are lower than anticipated, leading to higher proposed fees. The Council should be held accountable for the accuracy of its initial estimations and explore alternative strategies to manage costs without burdening practitioners.
- While I understand the necessity of repaying the loan from AcNZ, there is a lack of information on alternative strategies considered for loan repayment. The repayment schedule for the loan received from AcNZ could be renegotiated or extended, providing financial relief and minimizing the immediate impact on practitioners through reduced fees. The loan should not be the burden of the practitioners.
- The proposed fee increase does not directly correlate with the level of regulatory activity or the frequency of disciplinary proceedings fee. No justifiable reasoning is given as to why disciplinary fee is as high compared to other professions outlined.

- The proposed fees are too expensive and some will not be able to afford both the CMC and their professional body fees. As we have to legally register with CMC, a large percentage of practitioners may opt out of their professional memberships, which then leaves a big hole in our practitioner support and development.
- Higher APC fees will lead to an increase in the cost of services provided by practitioners, making Chinese medicine less accessible to the public.
- The Council should explore cost-effective practices to manage its operational expenses without resorting to significant fee increases. Initiatives such as efficient use of technology.
- While the Council acknowledges the need for regular fee reviews, the proposed increase is premature given the Council's early stage. A commitment to stable, predictable fee structures would encourage confidence in practitioners and facilitate better financial planning.
- The existing system places practitioners in the difficult financial position of having to weigh the implications of purchasing indemnity insurance privately versus opting for the discounted rate provided by AcNZ on top of AcNZ registration fee. This situation has everything to do with both AcNZ and the Council. This model is unacceptable. Both the Council and AcNZ need to act quickly to discuss openly about pooling practitioners together to reduce insurance costs per individual, lessening the financial burden on top of the APC fee.
- The comparison of fees between different modalities is helpful. It shows how much more expensive the disciplinary fees are than other modalities on the whole. It seems unfair that we have to cover the cost of other practitioners who are potentially doing harm or not practising safely/correctly.
- Given that it has been a relatively brief period since the initial 2023/24 APC payment, it seems impractical to require a full fee once more. I propose that, in the spirit of fairness and to alleviate the financial burden on practitioners, there should be a reduced rate for those who have already paid for the initial part-year APC. This approach would not only align with the principles of transparency but also demonstrate a commitment to supporting practitioners during this transitional period.
- I am working hard to pay off bills, mortgage, fees for kids, to be honest, it is stressful. I believe the majority of acupuncturists would be in a similar situation. Give us a vision, what TCM should be in the future. Currently, acupuncture is like an accessory in health service teams, we can give treatment, but we can't make a diagnosis. How weird it is. I understand it will take a long time to build up the professional team. Make us understand CMC will stand for us and fight for us, we don't want to see again only Acupuncture ACC treatment is cut down from one year to three months. I believe CMC is trying to make fair payment to both parties, share with us other professions payment, and how the fee will be used. I am a big supporter of CMC, I do believe only through CMC can TCM become a real profession in NZ.
- The proposed APC fee of \$800 represents an 83% price increase from the NZ\$437 per year I was paying under NZASA. This substantial increase seems disproportionate, especially considering that your organization will be receiving double the amount of registration fees compared to NZASA. Given this, one might expect the APC cost to decrease, or at least remain similar, not drastically increase. In light of the financial strain this poses on small businesses and acupuncture practitioners in the current economic environment, I propose a more moderate increase, if necessary, of no more than 20%. This rate seems more in line with reasonable adjustments for inflation and operational costs, while still being fair to practitioners.

- If you decide to go ahead with a high increase of APC from \$437 to \$800 a year, I suggest that you look at ways to offset the cost for practitioners. For example, offering free CPDs for yearly APC or offering a way to reduce the cost of CPDs for example self study as a way of getting CPDs for the yearly APC.
- The complainant should be the one to bear the cost of complaint investigations, not the practitioner. If each practitioner is made responsible for the sizeable cost payable, he/she would think twice before committing any misconduct or illegality. This in turn preserves other practitioners' integrity and ethics. Currently the practitioners are already bearing substantial costs on the APC with both NZASA and CMCNZ and the required CPD training costs. This suggestion would be equitable for all practitioners concerned.
- The Council has yet to grant full authority to practitioners. Notably, the CMC is not fully recognized by ACC, implying that the council's services are not yet fully accessible to practitioners. We have conducted a comparative analysis with other health regulators, specifically the Chinese Medicine Council and Physiotherapy Board. The roles and responsibilities outlined for these organizations highlight the comprehensive functions they perform in safeguarding the public and ensuring the competence of practitioners. The interim period, where practitioners require both CMC-issued APCs and those from their respective voluntary regulators, raises concerns about the efficacy of the current fee structure, especially for acupuncture practitioners. We suggest:
  - The current proposed APC fee for 2024-2025, including practising practitioners applying for APCs, new applications, and late renewal fees, should be reconsidered.
  - The \$200 register fee is deemed acceptable for the purpose of recognizing legal TCM practitioners.
  - APC fees for herbal medicine practitioners should be fully applied, ranging from \$200 to \$400 per year, reflecting the council's duties towards TCM practitioners providing herbal medicine treatment.
  - Acupuncturists and Tui Na practitioners should not be subject to fees until ACC successfully amends legislation. Subsequently, the APC fees, when implemented, should be less than \$700 annually.
  - If ACC amends legislation midway through the year, members should be allowed to resign from AcuNZ or NZASA and pay APC fees to CMC for the remaining months of the year.
  - Members who have already paid \$422.5 for 2023-2024 should have this amount transferred as credit towards their 2024-2025 fees.
  - The council should only prescribe full APC fees to members when it can deliver its full authority and services.
- We would like a written commitment from the Council that there will be an annual review of APC fees during the first five years of the Council's operation. In the first five years of operation, it can be reasonably expected that there will be an increase in registration numbers. Whilst we accept that the Council needs to build a reserve of funds as outlined in Point 7. of the Consultation document, we would expect that increase in registration numbers would result in a reduction of the APC fee (and disciplinary fee). The Council will also be able to determine their actual operating costs more accurately as time goes on.
- It would appear from figures released in the CMCNZ's December 2023 newsletter that the number of registered practitioners renewing APC's for the 2024/25 practicing year is likely to

exceed 850. We would expect that the Council will review and recalculate the APC fee in relation to actual and not estimated numbers prior to a final decision and gazetting of the APC fees.

- We query whether the current proposal for an audit of Continuing professional development to take place during the 2024/25 practicing year is warranted. Our reasoning is as follows:
  - The audits will be of the 2023/24 practicing year which was a transitional year, with APC's only being issued by the CMCNZ for a partial year commencing August 2023. The Council has introduced a CPD policy and reporting requirements which have some notable difference to those that were in place for practitioners who were already registered with AcNZ (and NZASA) from the 1 April 2023. We suggest that the audits commence in 2025/26, once practitioners have learnt and embedded the new CPD policy and requirements.
  - All registrants are required to submit evidence of completion of three of the prescribed Cultural competency and cultural safety courses within six months of registration with the CMCNZ, and to declare completion of 22 hours of CPD to the CMCNZ. We believe this provides adequate assurance of ongoing CPD within the 2023/2024 transitional practicing year.
- The AcNZ Board agrees with the disciplinary levy that the Council has proposed and with the stated plan for this to be reviewed in the 2025/26 practising year in view of actual disciplinary action undertaken.
- Referring to information from [careers.govt.nz](https://careers.govt.nz), Acupuncturists typically earn around \$47K per year, whereas Chiropractors, Osteopaths, Dietitians, Paramedics, and Optometrists with over five years' experience usually earn around \$60K~114K per year. Furthermore, the high demand in the market for Chiropractors, Osteopaths, Dietitians, Paramedics, and Optometrists contributes to favourable job opportunities in these professions, whereas the demand for Acupuncturists is average due to stable numbers in the role. Therefore, a reduction in the APC fee seems both reasonable and beneficial for the upcoming APC of 2024-2025.

## Response

### Regular fee reviews

The Council is in its early days so it will be necessary over the initial years of regulation to review all fees imposed on a regular basis to ensure they are sufficient for the Council to carry out its responsibilities under the HPCA Act. Over time, the Council's aim will be to provide certainty of costs for practitioners from one year to the next.

The Council is committed to specifically conducting an annual review of APC fees in its first five years of operation. Where any of the Council's estimated costs or calculations for a particular year do not eventuate and this results in a significant profit at year end, the Council will reduce APC fees in the following year to account for this. The Council will update practitioners and stakeholders on the outcome of such reviews once they have been conducted, and where any changes are proposed, a public consultation will follow.

### Affordability

The Council acknowledges that the past couple of years have been challenging and some may have experienced financial hardship as a result or may be just starting out in practice and may find paying the Council's fees all at once difficult.

In recognition of this, the Council has implemented a policy on accepting payment by installment for annual practising certificate (APC) fees for those earning under a certain amount. This policy applies to APC fees only (not registration fees) and requires part-payment at the time of application, followed by a commitment to pay the rest by regular instalment over the practising period. This policy is in place and can be found on the 'Fees' page of the Council's website.

Work and Income New Zealand (WINZ) is also available to assist those experiencing financial hardship and may be able to contribute towards the costs associated with maintaining professional practice.

### **Setting appropriate disciplinary levies**

In terms of setting the level of any discipline levy, the Health Practitioners Competence Assurance Act 2003 (the Act) allows the Council to levy registrants at any time for any amount that may be required to fund the costs arising out of investigations of professional conduct committees (PCC) or the Health Practitioners Disciplinary Tribunal (the Tribunal). However, it is the Council's intention, wherever possible, to consult with its registrants on any levy well ahead of a levy being imposed so that practitioners have time to plan for meeting these costs.

For now, the Council has to estimate the level of complaint activity there might be in any given year that could lead to PCC or Tribunal costs, which is what has been done to calculate the current proposed levies. For example, the Council has based the proposed levy for 2024/25 on an estimate of 3 PCCs at a cost of approximately \$15,000 each for a typical case and two Tribunal cases at an average of \$35,000 per case, as well as just basic administration contributions (as required under the Act), which is a small 'per registrant' charge of \$6 from the Tribunal to allow it to operate. This cost is then spread across the expected number of practising practitioners for the year and is included in the proposed APC fee.

In relation to the levies charged by other regulated professions, a direct comparison is not necessarily like for like, in that various factors may have influenced the levies imposed by those regulators as follows:

- They are well-established and therefore have a good indication of their average expected discipline activity from one year to the next
- They may have built up discipline reserves already and have therefore reduced or removed their levy to ensure funds are maintained at a certain level
- Their practising practitioner numbers are higher and therefore the levy is spread across a greater number of practitioners.

It is the Council's hope that there may not be this much activity in 2024/25, and if so, the Council will reduce the levy for 2025/26 accordingly. Discipline activity is very hard to predict as you just do not know when complaints will arise and how complex they will be. Over the coming few years the Council will aim to build up a small reserve of discipline funds (once again, in accordance with a Reserves Policy) so that it can smooth these costs from one year to the next.

### **Fee comparison with other professions**

A comparison APC fee table was included in the Council's recent consultation document. This table was intended to provide reassurance that the Council's estimated operating costs (by way of APC fee) were comparable to other similar-sized health regulators and also to illustrate that the higher the number of practising practitioners there are, the lower the fee will be. Unfortunately, the inclusion of this table has led to some submitters drawing comparison between the fees charged and the incomes earned by those professions. There is no correlation between APC fees charged and the income a profession earns.

From early in the application process for the profession to become regulated estimates of the anticipated costs of regulation and the predicted APC fee were calculated. A figure of around \$800 per practitioner (excluding any disciplinary levies) was estimated. The Council is committed to doing its best to keep its overheads low in order to maintain or reduce this level of APC fee.

#### **Fee comparison to professional bodies**

A comparison between the fees charged by professional bodies in recent years and the APC fees proposed by the Council has been drawn by some submitters. It is important to make the distinction between the work of a professional body and the work of the Council. The two are not the same and therefore the operational costs are not the same.

Some of the main activities of a regulator include:

- Issuing licenses/practising certificates, registering members, and collecting associated fees.
- Setting scopes of practice, standards of practice and ethics.
- Participating in the legislative process governing the profession.
- Accrediting (or recognising) educational programmes.
- Ensuring licensees/registrants meet continuing education requirements.
- Providing an up-to-date register of licensees/registrants to the public.
- Investigating and resolving complaints against licensees/registrants.
- Implementing the outcomes from disciplinary hearings and imposing remediation measures and/or penalties if necessary.

Some of the main activities of professional associations/bodies can include:

- Lobbying policymakers for changes that benefit the profession.
- Offering designations or certifications.

- Collecting membership dues, selling products/services, and raising funds.
- Promoting the profession to attract new entrants.
- Adopting professional/ethical standards (in some cases).
- Providing job boards, professional development, learning resources, and networking opportunities.
- Educating members on their rights and generating public awareness about issues impacting the profession.
- Working with unions during negotiations for new collective agreements.
- Recognising the achievements of professionals with awards.
- Offering exclusive discounts and perks to members.

Some of the activities of regulators and professional bodies can seem to overlap but there are several key differences, which can be summarised as follows:

- Membership in professional associations is almost always voluntary for professionals, but registration in a regulatory body is mandatory.
- Regulators issue licenses/practising certificates, certify or register their members, which is required for them to practice; professional bodies can offer designations or certifications, but these are optional and not required to practice.
- Both participate in the policymaking process, but regulators do so to mitigate/address risks to the public, while professional bodies lobby to benefit the profession and members.
- Both can adopt ethical standards or codes of ethics, but regulators have the power to enforce them while the power of professional bodies in this area is limited.
- Both collect fees from members, but regulators do not sell products/services.

The Council's general operating expenses are covered by the APC fee that each Chinese medicine practitioner must pay as part of their application to receive a practising certificate each year. The Council does not receive funding from the government or any other source to operate. Therefore, the Council is unable to discount APC fees as suggested by some submitters.

#### **Loan from AcNZ**

As indicated in the consultation document, the loan to AcNZ was unanticipated. The profession failed to pay the full required amount to establish the Council. Without this loan, the Council would not have been able to put the necessary processes and systems in place to open registration and the Minister's

office indicated that de-regulation of the profession was a very real possibility. The Council therefore agreed to receive the loan.

The Council did try to re-negotiate the timing of the initial loan repayments to lessen the impact on APC fees for 2024/25. Unfortunately, the Council's request was turned down. The payment was, however, decreased to reflect the amount already repaid by the Council.

### **The Council is performing its functions in accordance with the HPCA Act**

One submitter indicated that as ACC is not currently recognising the APC issued by the Council for the purposes of treating ACC clients, that the Council is not granting full authority to practitioners and therefore should not be charging a full APC fee. The Council is performing all of its required functions under section 118 of the HPCA Act. Enabling authority to provide care to ACC clients is not a function of the Council under the HPCA Act. Providing care to ACC clients is a decision for each individual practitioner.

Having said this, the Council has been doing everything it can to encourage ACC to modify its general operational requirements to recognise an APC issued by the Council in the interim while the ACC regulations are being amended. Unfortunately, to date, ACC has indicated it is not immediately minded to do so.

### **Audit of Continuing professional development activities in 2024/25**

The Council acknowledges the request that CPD not be audited in 2024/25 and will further discuss this at its upcoming February 2024 meeting. Any change will be communicated with practitioners and stakeholders via e-communication.

## **Council decisions**

The Council considered consultation feedback via email circulation and decided on a way forward. The Council resolved to confirm the APC fees proposed in its recent consultation document.

The Council published its 2024/25 APC fees in the NZ Gazette dated **24 January 2024**. A link to the Gazette notice and a copy of the Fee Schedule can be found on the 'Fees' page of the Council's website. The Gazetted fees come into effect from **26 February 2024**.