Regulations

Gregory Parkin-Smith to natboards:

Dear Sir or Madam:

PLEASE NOTE THAT THE LETTER BELOW STATES MY OPINION ONLY AND IS NOT THE NECESSARILY THE OPINION OR POSITION OF ANY OTHER THIRD PARTY

This e-mail presents some thoughts on the recently acquired consultation paper on codes and guidelines for chiropractors rather than a specific critique of the paper, drawing upon my experiences in the UK NHS, the UK NHS having undergone transformational change over the last 10 years,

a. It appears that the paper proposes regulations that pertain to chiropractors only, as opposed to other health care professions, which implies over-regulation and regulatory inequality. This may have human rights implications. For example, I draw your attention to the case of Steel and Morris Application no. 68416/01 (15 February 2005) where the European Council on Human Rights ruled in the case of that there must be equality of arms in any legal proceeding and criticized the UK government for lack of legal aid. This ruling will have a profound impact on the regulatory bodies in the UK and Europe, and possibly also in Australia in the years to come. This is an example where regulatory inequality or over regulation may impact human rights, the principle being transferrable to the extensive regulations proposed specifically for chiropractors.

b. It is clear that the timescale for constructive feedback and adequate response it not sufficient. I am sure it did not take the members of the Chiropractic Board of Australia only a few days to complete this document, but that it was a paced, thoughtful and deliberate process. Similarly, sufficient time should be provided for beneficial feedback and critique of the paper, particularly since this is a fundamental and highly significant document that will impact on the professional lives of chiropractors for many years to come.

c. It appears that the paper draws upon documents from UK regulatory bodies, such as the GCC (UK). It is worth mentioning that the GCC (UK), in turn, drew heavily from policy documents of the General Medical Council (GMC)(UK), among others. Evidence is now emerging that the manner and format of regulation by the GMC (UK) has been subject to a great deal of criticism, from both the public and doctors alike. I draw your attention to the following examples and high court judgements:

1. Coleman V GMC 2009 "Lord Justice Thomas indicated that the procedural irregularities at the time were so serious that those involved in the original decisions taken against the doctor should appear at the full hearing later on.";
2. R. Pal v GMC 2005 "His Honour Judge Harris' damning judgment against the GMC in the first hearing of the case R. Pal v General Medical Council…judge blasted the controversial doctors' watchdog for acting like a 'totalitarian regime' similar to Stalin's Russia..";

3. "The mortality and morbidity amongst doctors going through these procedures (of the GMC) has been open to question. In 2003/4, 9 of 215 doctors undergoing Fitness to Practice died. Overall, the suicide rate of people undergoing a GMC's Fitness To Practise Panel is very high, fuelling doubts about their sentences being proportionate and fair" (Health Review Group 2005. GMC publications);

4. "The British Medical Association (BMA) backed a no confidence motion in the General Medical Council (GMC) at its annual conference in 2000, and confidence in the GMC seems not to have improved" (Celia Hall. British Doctors pass historic *Vote of No Confidence* in the General Medical Council (GMC. Daily Telegraph, 2000-06-30. Accessed 2006-09-30); and

5. Specific regulations and codes of conduct, as opposed to broader guidelines, may impede or sabotage the regulatory objective. For example, the recent libel case of Singh v British Chiropractic Association (BCA). The BCA won the initial case, but lost the appeal, of defamation where Singh accused the BCA of promoting bogus treatment. The consequence was that a Facebook page was set up by supporters of Singh and treatment claims of listed members of the BCA were explored (http://www.facebook.com/group.php?gid=33457048634; http://sportandhealthnews.com/2010/03/furious-backlash-from-simon-singh-libel-case-puts-chiropractors-on-ropes-martin-robbins/#; http://www.quackometer.net/blog/2009/07/general-chiropractic-council-hiring.html). Over 200 complaints, I believe, were logged with the General Chiropractic Council (GCC) thereafter, each complaint now having to be investigated. Effectively, supporters of Singh, rightly or wrongly, used the specific regulations and codes of conduct as published by the GCC to further their cause. This is a case where over regulation and adopting an overly comprehensive set of regulations is counterproductive.

These are examples of how over-regulation or, possibly, inappropriate implementation of the regulations may impact not only the profession but also the confidence in, and functioning of, the regulatory body itself. In my view it is best to learn from the mistakes of other nations rather than repeat them.

Sincerely,

Dr Gregory Parkin-Smith
Registered Chiropractor (WA)