

20 May, 2010

Dr. P. Donato
President
Chiropractic Board of Australia
chair@chiropracticboard.gov.au.

Dear Dr. Donato,

Revised Consultation Draft Code of Conduct for Chiropractors

We write to make submissions to the Chiropractic Board of Australia (CBA) in relation to the revised draft Code of Conduct.

We are grateful that the CBA has provided this opportunity for us to have input into the development of this national code. We are of the view that the development of a national code of conduct is an important step for both the Registration Board and the profession and while we are aware of the reasons behind the limited time frames, we are still concerned about the brevity of the consultation process.

We have now reviewed the second draft of the Code and would like to offer the following comments:

1. There is little doubt that this second draft has responded to the feedback the National Chiropractic Board of Australia received on its first draft. While this draft is much improved from the first draft, it still contains some unclear wording, generally inappropriate clauses. It also has a number of provisions that could be seen as demeaning and/or patronising and which we would suggest will be found to be offensive to the chiropractic profession.
2. It is certainly our understanding that the level of complaints to the existing regulatory authorities is well below that of some other professions and is reflective of a very safe and responsible profession with a wonderful safety record and therefore does not warrant the inclusion of some of the statements in the Code that would suggest otherwise. Eg. The statement in the Overview that *"This code seeks to assist and support Chiropractors within an ethical framework. Or "Chiropractors have a duty to make the care of patients their first concern"*
3. There are some apparent drafting issues that see the document contain comments that do not bear any relevance to surrounding passages or give any further explanation or guidance to the profession, and therefore would be prone

to create confusion in the reader. Eg. In the Overview it says - *In some circumstances the relationship between a chiropractor and a patient may become ineffective or compromised and may need to end.* This is a statement of the obvious, and bears no relevance to the clauses around it. Without any follow-up comment, it would appear to serve no useful purpose and could be deleted.

4. The first paragraph in section 1.2 would appear to denigrate the values of individual chiropractors without qualification or evidence. We would suggest that this type of statement does not appear in the AMC Code, undermines the profession and does not add anything to the document and should be deleted.
5. We note a statement in section 1.2, 3rd paragraph that chiropractors have a role to not only promote health but to protect the health of the community. We would seek some clarification from the CBA as to how it understands that Chiropractors could protect the community's health.
6. Clause (e) of section 2.6 states that the patient should not be denied care if reasonable steps can be taken to keep Chiropractors and their staff safe. This clause would appear to fly in the face of the rights of Chiropractors or any other health professional to choose their patients provided, the patient is not in any immediate danger. We would suggest that a chiropractor could reasonably choose not to continue to provide care to a patient for any number of reasons, eg. personality conflict, failure to comply with instruction. We would suggest that where a rapport cannot be established or has been lost, it would be appropriate for a chiropractor to advise the patient that they did not wish to continue to provide care, provided the patient did not require any immediate care and that they took appropriate steps to make recommendations for referral to another practitioner.

This position is well understood and accepted within the healthcare industry. For example, there are any numbers of medical practitioners and surgeons who will not accept patients simply because the patient is a workers' compensation patient.

7. We are concerned that section 3.3 appears to be patronising, listing a series of basic points that would appear to be more relevant to a teaching manual than a code of conduct for registered Chiropractors. We would suggest that this section could either be deleted or at least rewritten in a less patronizing manner.
8. Clause (b) of section 3.4 talks about seeking consent from patients before disclosing information "*where practicable*". It is our understanding that a practitioner is required to obtain the patient's consent before disclosing any patient information unless compelled by a subpoena.
9. Clause (e) of section 3.4 would appear to be irrelevant in the Chiropractic scenario and could be deleted.
10. Clauses (g) and (h) of the same section are certainly repeating what is adequately provided for in clause (f).
11. The purpose of Clause (e) of section 3.6 which states that there can be no financial disadvantage for early termination of an agreement, is unclear. Some

patients receive a significant discount if they elect to pay for a few visits in advance. Is the CBA suggesting that if the patient elects not to proceed with the care, that they should not forego the discount, even though they are electing to break the agreement and the practitioner will need to incur costs processing a refund? This would appear to you to go against the very purpose of having agreements and prepayments. We would suggest that if a patient accepts a discount as part of an agreement, then surely it is quite appropriate for that discount to be removed when a refund is calculated, provided the method of calculating that refund is well understood before the agreement is entered into.

12. Clause (c) of section 3.7 is clearly a duplication of clause (b), as surely the very definition of obtaining informed consent involves explaining risks of care and alternatives.
13. Section 3.15 states that chiropractors need to consider the appropriateness of patient care, when provided care in groups. We would suggest that this clause is a repeat of other clauses and that the concept is well covered in many other sections throughout the document and therefore it could be deleted.
14. Section 6.2 and 6.3 would appear to be statements of a political nature that have no place in a professional code of conduct and should be deleted.
15. Again section 8.1 is duplicated by 8.2. Again for the sake of brevity and given there are no sections beyond 8.1 this could simply be reworded into one clause.
16. Section 10.1 and 10.2 promote the concept of Chiropractors taking care of their health. While we fully support the merits of this section, we do not feel it is appropriate for a code of conduct to preach to practitioners about taking care of themselves, unless it can be shown that it is somehow unprofessional not to do so?
17. Appendix 1 relates to the conduct of public spinal screenings. We would be interested as to what the CBA understands by the term "spinal screening" and suggest that in lieu of perhaps assuming a common understanding across the profession, it should provide a definition.
18. We would suggest that the definition of spinal screening might also provide an answer to the question as to why the CBA is proposing that a screening must be conducted by a chiropractor or senior chiropractic student. It would appear to be a little confusing that the legislation does not stop a non-registered person from using chiropractic techniques, but that the CBA is attempting to limit who might conduct a non-invasive screening. Furthermore, there are many examples of where health screenings, some even funded by Government Authorities eg. WorkSafe in Victoria, that are not conducted by registered practitioners. We would suggest the Code recommend that the person conducting the screening be appropriately trained.
19. We would further suggest this clause require that the "screener" be appropriately identified with the person's name and their status, so that the public can understand who is conducting their screening.

20. We are also quite concerned that clause (c) appears to prevent the chiropractor from obtaining any contact information. We would strongly advocate that from a risk management point of view anyone conducting a spinal screening should at the very least keep a list of the names of people they have screened and/or spoken to, in order to protect themselves from any possible indemnity or public liability claims, eg. Tripped over a stand.
21. Furthermore many people involved in screenings will often want and request more information and should have the right to provide contact details in order to receive such information.
22. We believe that for the sake of brevity and to remove further duplication Appendix 3 should be deleted. The Appendix does not add anything to the Code and simply repeats matters that have already been adequately covered within the body of the document.

We respectfully offer these comments for the consideration of the Board and would be happy to provide further information to clarify or expand on our submissions if required.

We would like to wish the Board well in its deliberations and again like to express our gratitude for the opportunity to provide input into this important document.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Norman Brockley', written in a cursive style.

Norman Brockley
Chief Executive Officer