Submission to the Chiropractic Board of Australia

Regarding the Consultation Draft Code of Conduct for Chiropractors

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From: Andrew Paul DC,DO, MACC

Thank you for the opportunity to offer some input into the process of formulating the Chiropractic Board of Australia's Code of Conduct for Chiropractors

There is still a lot of ambiguity in the document as regards definitions and the document still is very demeaning to the Chiropractic profession in areas of language and intent.

In consultation with colleagues and drawing upon the opinions of my peers and mentors I submit this document in the hope that the Board can further simplify the code of Conduct to a workable document

My concerns, in detail, are grouped in the categories listed above:

Clauses that are demeaning to chiropractors

1. Page 1 Overview: first paragraph, second line: "within an ethical framework" is demeaning and unnecessary. It implies that all chiropractors need guidance because they are intrinsically unethical.
2. Introduction 1.1: first paragraph is a repeat of concern 1.
3. Page 4, 2.6 Decisions about access to care paragraph d): The last words "and not providing unnecessary services" is demeaning, unnecessary and should be removed. Its inclusion implies that all chiropractors need guidance because they all provide unnecessary services..
4. Page 12, 9.8 Reports etc Clauses a) and b): demeaning again: The inclusion of these clauses implies that all chiropractors need guidance because they all mislead and omit relevant information deliberately. Removing "not misleading" and "and not omitting relevant information deliberately" removes the demeaning direction and does not alter the meaning or spirit of the clauses.

Clauses that are inappropriate, irrelevant or unnecessary

5. Page 3 second column 1.2 Professional values and qualities: 1st paragraph, second sentence: This has no part in a chiropractic document. It is an unnecessary and proscriptive repetition of the first sentence. It must be removed
6. Page 5, 3.4 Confidentiality and privacy clause e): Irrelevant and has no place in this document. It must be removed
7. Page 8. 4.1 Use of modalities, 1st paragraph last sentence: This is a National code and any specific Victorian idiosyncrasies should be addressed in an appendix, if at all.

8. Page 13, 9.11 Conflicts of interest, clauses d) and e): Irrelevant in this document. References to pharmaceutical marketing and marketing drugs do not belong in the chiropractic code. These clauses must be removed
9. Page 13, 9.12 Financial and commercial dealings Clause c): Flowers and chocolates. This is extremely proscriptive and unnecessary. A requirement to make a file note or to tell a colleague about every box of chocolates or bottle of wine a chiropractor receives from patients at Christmas is silly. By being so proscriptive the Board removes the broad brush approach that would permit it to address all variations of a theme that some chiropractors or manipulative patients might use to get around the spirit of the key element of the clause.
10. Page 14, 10.2 Chiropractor Health Clause c): Proscribing a specific component of public health policy in this document, except to push a specific agenda, is not necessary. The principles of good hygiene and sanitation are not proscribed here and they have infinitely more evidence backing their understanding and utilisation. This clause does not belong in this document and must be removed. If someone on the Chiropractic Board of Australia has an agenda or conflict in this area it must be declared.

Clauses that cause substantive concern

11. Page 2 Introduction 1.1, 3rd paragraph: This code will be used: to assist the Chiropractic Board of Australia (the Board) in its role of protecting the public by setting and maintaining expectations of good practice – if professional conduct varies significantly from this Code, chiropractors should be prepared to explain and justify their decisions and actions and serious or repeated failure to meet this Code may have consequences for registration.

    There may be a reason for a chiropractors conduct departing significantly from the code. For example; a chiropractor is developing a new technique or diagnostic tool that does not currently have the support of the profession. In this instance repeated failure to meet the code would be acceptable “with justification”.

    The words “without justification” must be inserted after “repeated failure”

12. Page 4, 2.2 Good Care part o.): The words “accepted evidence base” should be removed and replaced with the words “currently accepted by peers.” Given that there is no evidence that practitioners who utilise evidence based therapies have better outcomes than anyone else the inclusion of this clause has no basis.
13. Page 11, 9.2 Professional Boundaries clause c): “are often” should be replaced with “may be”. If a chiropractor has a sufficient cooling off period before starting a relationship with a patient after ceasing care he or she should not be under the spectre of being judged as being in an inappropriate relationship.
14. Page 13, 9.10 Investigations Clause b): There must be a definition of “anyone entitled to ask”. This is an example oft poor drafting and leaves a chiropractor open to all sorts of legal issues, particularly in relation to privacy.

Clauses that are unclear, difficult to understand or poorly worded

15. Page 1 Overview: second column, Definitions third paragraph, third sentence: Practice: “it also includes using professional knowledge in a direct nonclinical (sic) relationship with patients”. If the relationship is non-clinical with a patient how is it

included in practice? The intention of this clause is unclear. Its wording should be revised or it should be removed.

16. Page 4, 2.6 Decisions about access to care paragraph e): Awkward sentence structure in the first two lines. It is difficult to read and does not make sense. It needs re-wording if it is to be included at all..
17. Page 4, 2.6 Decisions about access to care, second column paragraph g): This clause does not appear to make sense as it is written.
18. Page 5, 3.4 Confidentiality and privacy clause b): This clause does not appear to make sense. Disclosing information to whom? What does this clause say that is not said in clause d)?
19. Page 7, 3.11 Adverse events and open disclosure, 1st paragraph last line: "When something goes wrong" should be replaced with "when an adverse event occurs". The casual language is not consistent with the remainder of the document

A clause that contains obsolete language.

20. Page 1 Overview: second column, Definitions second paragraph, last five words. "…whether renumerated or pro bono" This is an Australian document and the use of a foreign and obsolete language should not be tolerated. It is much better described in the next sentence as: "whether renumerated or not."

Paragraghs

1.1 Use of the Code

"… within an ethical framework"

Comment: You decline to state upon whose or what ethics you are referring. Seeing that you refer to "ethics" frequently wouldn't it be useful to understand which philosophy the "ethics" you refer to is related.

I submit that you define this term.

"Chiropractors have a professional responsibility to be familiar with this Code and to apply the guidance it contains"

Comment: If chiropractors are obligated to apply the guidance with the threat of deregistration or fine for non-compliance there needs to be a much clearer delineation of requirements. I realize that by keeping it general it gives your lawyers greater latitude to penalize and prosecute.

1.2 Professional values and qualities

"While individual chiropractors have their own personal beliefs and values, there are certain professional values on which all chiropractors are expected to base their practice".

Comment: What are the Professional values that we as Chiropractors are expected to base our practice on? If, as a Board you wish to think for us then please state EXACTLY what it is we are ment to be thinking.

I submit that you define the "professional values that Chiropractors must base their practice.

"Chiropractors have a responsibility to protect and promote the health of individuals and the community".

Comment: Chiropractic is an individually based profession. The community is affected one individual at a time.

I submit that "the community" be deleted

1.3 Australia and Australian health care

Comment: This section is a statement of the obvious, is politically correct but does not add anything to the boards' charter

I submit that this section be deleted

1.4 Substitute decision makers

Comment: This section is redundant

I submit that this section be deleted

2 Providing good care

2.1 Introduction

b) "Ensuring that the diagnosis is relevant, justifiable…"

Comment: Diagnosis is relevant to symptomatic treatment however it is not to asymptomatic care.

I submit diagnosis/analysis/clinical assessment or similar.

e) “Recognizing the limits to a chiropractors own skill and competence and referring a patient to another practitioner when this is in the best interests of the patients”

Comment: This is too nebulous. How, at the time does a chiropractor know what they don’t know? This is a deterrent to gaining experience (a new graduate should refer all patients out). This will be used with the benefit of hindsight against chiropractors.

I submit that this subsection be deleted

2.2 Good care

h) “Providing treatment options based on the best available information”

Comment: “treatment” is one level of care offered by chiropractors. This requirement is neglectful of those people utilizing chiropractic care at an asymptomatic care level. This would render neglectful any chiropractor who is adjusting a person based on chiropractic analysis. “Best” will provide a platform where the Board will be selective as to which information it accepts.

I submit that “treatment is changed to treatment/care and that “best” be deleted”

j) “Taking steps to alleviate the symptoms and distress of patients, whether or not a cure is possible”.

Comment: If we do not take steps to act upon this we are not performing “Good Practice”. This is not consistent with the chiropractic premise and the respect for the body which that entails. Symptoms are indicators not to be alleviated. I would suggest that this is medical ethic and chiropractic sees our responsibilities in a different context. Also the mention of “cure” flies in the face of your prohibition of this word in the context of chiropractic via the advertising guidelines.

I submit that this sub-section is deleted

n) “Ensuring that the chiropractor’s personal views do not affect the care of a patient adversely”

Comment: The chiropractor’s personal views (philosophy) will always affect some people adversely. It is not the responsibility for a chiropractor to be all things to everyone and so because of this a chiropractor will cater to a certain section of society and others will be alienated by this preference. For example, a chiropractor who only delivers relief treatment

due to an allopathic ethics will adversely affect those patients who would therefore be deprived of corrective care or other higher levels of chiropractic care.

I submit that this sub-section is deleted

o). “practicing in accordance with the current and accepted evidence base of the chiropractic profession, including clinical outcomes”

Comment: Where is the evidence that evidence based practice is more effective, efficient and safer? If practice is always in “accordance with”, where is the opportunity for the growth and development of the profession? You suggest that every time a chiropractor performs an adjustment that is not published he/she is in breach of the ethics of the profession!

I submit that this sub-section is deleted

2.6 Decisions about access to care

“A chiropractor’s decision about access to care needs to be free from bias and discrimination”

Comment: This entire section is confused and contradictory. It treats chiropractors with contempt. Chiropractors should always discriminate and make decisions (bias) as to the most appropriate service for a person who consults them.

I submit to you that this section is deleted.

e) “Keeping chiropractors and their staff safe...”

Comment: It is the choice of any chiropractor to deny care to anyone providing appropriate arrangements are made for their further care.

I submit that this sub-section is deleted

2.7. Treatment in emergencies

“Good practice involves offering assistance in an emergency…”

Comment: What does emergency mean? Is that in our offices? Is it at a road traffic accident? This is a huge impost to demand chiropractors to “continue to provide that assistance until services are no longer required”. We are not paramedics.

I submit to you that this section is deleted.

3.2 Partnership

Comment: This section is contradictory. If the Chiropractor is to be "honest" then they go against section 9.2 Professional boundaries "Good practice involves… d) avoiding expression of a chiropractor's personal beliefs to patients….that are likely to cause them distress" Is the Chiropractor to be Honest as in this section or dishonest (not give complete information) so as not to distress the person?

The second part of this section "a good partnership between a chiropractor and the person he or she is caring for also involves the patient to contribute to the effective therapeutic partnership by…"

Comment: It is ridiculous to entertain this demand in a document entitled "Code of Conduct for Chiropractors". How another person handles his or herself in any context can not call into question the "conduct" of the chiropractor. This is outside of the control of the chiropractor and is an abuse of your power to make this a condition of registration.

I submit that you delete from after g) down in Section 3.2

3.3 Effective communication

d) Discussing with patients…."

Comment: chiropractors (nor any other health care practitioner) are not qualified to discuss "available health care options, including their nature, purpose, possible positive and adverse consequences, limitations…" Chiropractors can discuss the chiropractic options.

I submit that you delete this sub-section

f) "Ensuring that patients are informed…"

Comment: This is a duplication of the informed consent section

I submit that this sub-section be deleted

i) "Becoming familiar with, and using wherever necessary, qualified language interpreters…"

Comment: Placing this responsibility on the shoulders of chiropractors is an outrageous impost. Let the patient bear the responsibility and expense of this service.

I submit that this sub-section is deleted

j) “Communicating appropriately…”

Comment: what is the “treating team” that you refer to?

“Appropriately”, by what and whose standards?

“Relevant information to other stakeholders” Who is these stakeholders, what information is considered relevant and under what conditions shall this information is shared?

I submit that you delete this sub-section

3.4 Confidentiality and privacy

e) (Regarding genetic information)

Comment: This is not a necessary for chiropractic practice

I submit that you delete this sub-section.

f) & g)

Comment: f & g are not necessary as h states your requirement.

I submit that you delete sub-sections f & g and retain h

3.5 Informed consent

“Informed consent is a person’s…”

Comment: If you wish the NHMRC guidelines on informed consent to be a part of this code, then bring them into it.

I submit that you copy the NHMRC guidelines on Informed Consent into the Code of Conduct for Chiropractors

b) “An explanation of …”

Comment: chiropractors (nor any registered health care provider) are not qualified to be responsible for explaining “alternatives to the proposed care and their relative risk/benefits”. There is a diverse range of health care options available for any given person or situation.

To enforce a health practitioner to entertain the likely consequences of no care is speculation not to mention fear induction.

I submit that you delete this sub-section

3.6 Informed financial consent – fees

d) “Offering a ‘pay as you go’ alternative

Comment: This defeats the object of an office preferring to offer ‘pre-financial agreements’ There may be a reason a Chiropractor like to have their finances in this manner and as long as the other agreements are in place. The board has no right to dictate how we handle our finances.

I submit that this sub-section is deleted

f) “Ensuring the amount, time and quality of care delivered do not differ for those patients (with similar conditions) on a pre paid financial agreement to those who are not”.

Comment: This is a ridiculous sub-section. To even make suggestion that a Chiropractor does not give full care to everyone they see is demining.

I submit that this sub-section is deleted

3.7 Children and young people

“Caring for children and young people brings additional responsibilities for chiropractors”

Comment: Caring for children brings no more additional responsibilities than caring for any other person in society. Every person who we see brings additional responsibilities so why

single out children unless you have another agenda? Every point that you make under this section could be equally applied to any other group of the population.

I submit that you delete this entire section with the exception of 3.7 d) as amended below

d) Refers to the age of consent. If you want to vary the age of consent then state it rather than forcing chiropractors to decide and then challenging them in court on their decision.

I submit that you state the age of consent

3.8 Culturally safe and sensitive practice

Comment: This is Political non-sense. The responsibilities of chiropractors are to the individual in whatever shape of form they present.

I submit that this section is deleted

3.15 working with multiple patients

…, Chiropractors should consider whether this mode of treatment is appropriate to the patient involved.

Comment: Why would a chiropractor place a person in a group situation if they have not already considered that this is 'best practice' for them?

I submit that this section is deleted

5.1 Respect for colleagues and other practitioners

a) "Communicating clearly, effectively, respectfully and promptly with colleagues and other practitioners caring for the patient"

Comment: This is a huge impost on a chiropractor. The majority of people who a chiropractor sees on a daily basis have other health care advisors, be they GP's, Specialists and other Allied health providers. This requirement will see a chiropractor bound up in paper-work and phone calls as they attempt to comply with this ridiculous demand.

I submit to you that this sub-section be deleted and leave in its place b).

5.4 Coordinating care with other practitioners

a) “Communicating all relevant information in a timely way”

Comment: I repeat my comments from 5.1 (above). This is a huge impost on a chiropractor. The majority of people who a chiropractor sees on a daily basis have other health care advisors, be they GP’s, Specialists and other Allied health providers. This requirement will see a chiropractor bound up in paper-work and phone calls as they attempt to comply with this ridiculous demand.

I submit that you delete this sub-section

b) “Ensuring that it is clear to the patient, the family and colleagues who has ultimate responsibility for coordinating care of the patient”

Comment: How presumptive to take a position of telling a person that I, the chiropractor am responsible for coordinating your care. This is written from a medical gatekeeper perspective and comes nowhere near good practice for a chiropractor. Good practice is about empowering people to assume the ultimate responsibility for their care.

I submit to you that this entire section be deleted

6. Working within the health care system

6.1 Introduction

“Chiropractors have a responsibility to contribute to the effectiveness and efficiency of the health care system”

Comment: Firstly, Chiropractors have a responsibility to the people that come and see them and not the people that don’t. Secondly, there is still no definition of ‘Health Care system’ described, therefore, one can assume it is the common usage. Thirdly there is the incorrect assumptions that the ‘health care system in Australia is effective and efficient’

Chiropractors are not working within the ‘health care system’ and never have. This is false and misleading, unless of course that is your direction for our profession??

I submit to you that this entire section be deleted

6.2. Wise use of healthcare resources

Comment: This needs to be defined. Chiropractors do not use healthcare resources. A person should be referred back to their GP if any other resources are necessary for their care.

I submit to you that this entire section be deleted

6.3 Health Advocacy

Comment: A definition of health is needed. We should be supporting and educating the people that come to see us, **not**, using our expertise to influence (according to 9.2 we have professional boundaries that stop us from using our personal beliefs. our expertise and influence can only come from our own history and experience). This suggests to me that we are forcing them to do what we want for our own agenda and not theirs.

I submit to you that this entire section be deleted

6.4 Public Health

Comment: Without a definition of "Public Health" it is improper to have this as a requirement for chiropractor's good practice.

I submit that this sub-section is deleted

7. Minimizing risk

Comment: The statutory requirements should be stated here.

7.2 Risk Management

a) being aware of the principles of open disclosure and non-punitive approach to incident management; a useful reference…….

Comment: If there is anything in this reference that we are expected to know, in accordance to this code then it must be disclosed here.

I submit that you copy the Australian Commissions on safety and Quality in Health Care's National Open Disclosure Standard into the Code of Conduct for Chiropractors or this section should be deleted

c) Participating in systems for surveillance and monitoring of adverse events and 'near misses'…….

Comment: "Good Practice" to include surveillance by whatever means is intrusive and unnecessary. I would like a definition of a 'near misses' I find this quite laughable.

I submit to you that this sub- section be deleted

7.3 Chiropractor performance

a) Complying with statutory reporting requirements, including those under the National Law refer to……

Comment: Anything that we need to know about this Code of Conduct for Chiropractors should be included here. You have given Appendix for the Radiography, yet seem to have neglected this. Is there something hidden in there that due to it not being here we may not like and therefore knowing the lack of time given to read this one report, hoping that no one will read the others????

I submit to you that you include the Board Guidelines on Mandatory reporting in the Code of Conduct for Chiropractors.

b) Recognising and taking steps to minimise the risk of fatigue, including complying with the relevant state and Territory Occupational health and safety legislation.

Comment: Again is this neglect on your part to not include this in the appendix or is there a hidden agenda deliberately not including this??

I submit that you include the Occupational health and safety legislation as an appendix.

8.2 Continuing Professional development (CPD)

Comment: This is a repetition again. This should be included in the Code of Conduct, as an appendix.

I submit that you include the Registration Standard and guideline regarding CPD in the Code of Conduct for Chiropractors.

9.2 Professional boundaries

d) "Avoiding the expression of chiropractors personal beliefs to patients in ways that exploit their vulnerability or that are likely to cause them distress"

Comment: All communication is an expression of personal beliefs. Whether a person is vulnerable or distressed by the viewpoint that the practitioner ethically holds is something to be worked with. It is wrong that you would prohibit chiropractors having a viewpoint on any issue and expressing it in an appropriate context.

I submit to you that this preamble be deleted

10.2 Chiropractor health

a) "Attending an appropriate practitioner to meet health needs"

Comment: This is an unnecessary dictate

I submit to you that this sub-section be deleted

c) “Understanding the principles of immunization against communicable diseases”

Comment: There is no need or relevance for this requirement here. You may as well demand that chiropractors understand the Krebs cycle or any other biological process. If you mean that chiropractors should support mass vaccination then state it and don’t beat around the bush with euphuisms.

I submit to you that this sub-section be deleted

d) “For chiropractors who are able to prescribe…”

Comment: Chiropractors aren’t able to prescribe so this should not be there. If they can prescribe it is under another licence and registration and therefore another professional code.

I submit to you that this sub-section be deleted

Appendix 3:

Guidelines in relation to Duration and Frequency of Care

1. A program of care should be based on clinical need and be…

Comment: I suggest that this wording is limited to low level, needs/condition based care.

I submit that this preamble be changed to include the statement “A program of care should be based on “outcomes and clinical indicators” and be tailored” etc.

I respectfully submit that the Chiropractic Board of Australia amends the revised code to reflect the changes I have suggested.

Yours sincerely,

Andrew Paul
Suite 8, 2nd Floor, Royal Arcade
175 Oxford St,
Bondi Junction 2022
NSW Australia
Phon: 02 9389 7800
Email: hiro@healthodyssey.com.au