‘Attention’, Chair, Chiropractic Board of Australia
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Submission to the Chiropractic Board of Australia
Consultation Draft Code of Conduct for Chiropractors dated May7th 2010

May 20, 2010

Chair,
Code of Conduct for Chiropractors

I thank you for the opportunity of responding to the proposed Code of Conduct for Chiropractors. I note some minor changes to the initial proposal and I welcome them, however there is still a long way to go.

I wish to state plainly that I share the Boards concern and regard for protecting the safety of the public, however I am disheartened to see that the CBA has strayed wildly from this objective and is seeking to limit and re-define the practice and profession of Chiropractic.

It is manifestly evident from the tone, content and over proscriptive nature of the document that the document has been covertly intended to limit, damage and irreversibly change the nature of the chiropractic profession. It is not the function of the CBA to re-invent the chiropractic profession and any document produced with such an agenda must and will be rejected by the profession.

If the CBA assumes the role of limiting, damaging and irreversibly changing the nature of the chiropractic profession, then it must be prepared to have a very open transparent dialogue in the public arena, and be prepared listen and respond to concerns raised.

It is arrogant of the CBA to consider it can propose such radical changes upon the chiropractic landscape without a major uproar from not only within the profession but more importantly from the Boards most significant stakeholders, the general public. To think this will not happen is folly.

Given its importance, I am disappointed with the lack of time to consider the unnecessarily complex document. The rushing of this document makes a mockery of the consultation process and unfortunately appears to be a deliberate attempt to shut the process down.

Given the tight timeframe surely it is encumbered upon the Board to adopt a simple and clear document albeit leaving scope for it to be revised, but only as warranted by future experience and need.

My proposal is simple; the CBA needs to adopt a broadly generic document, in keeping with the other national registration boards (especially in line with Osteopaths and Physiotherapists) giving allowance for minor alteration concerning the very few issues that are specific to the chiropractic profession.

After reviewing the proposed Code of Conduct for Chiropractors ***there remain several very serious concerns which will <u>no doubt come to the attention of the Minister and indeed the general public should the guidelines proceed</u> without radical and significant simplification and revision.*** These very serious concerns are as follows:

1. The proposed guidelines are completely out of step with guidelines for similar professions such as Physiotherapy or Osteopathy, being both over proscriptive and antagonistic to the chiropractic profession.

2. The guidelines have gravely overstepped the mark of being a Code of Conduct for Chiropractors and have plainly been written by a minority, unrepresentative sector of the profession with the intention of changing the very nature of the profession. The CBA has failed to produce a simple Code of Conduct and instead has produced an over proscriptive document that serves to re-define the profession it purports to regulate.

3. By comparison to other national boards the CBA appears to lack even the competence required to produce a basic guideline. How can the Minister, the general public or the profession be expected to have confidence in the CBA if it so spectacularly fails to produce an acceptable Code of Conduct for Chiropractors?

4. The CBA has NOT published all the submissions as it stated it would. WHY NOT?

5. The board has NO ROLE in defining the profession and has erroneously overstepped its mandate to protect the public. It is not mandated to intrude into issues of professional contention and debate. The CBA is not qualified or competent to make determinations as to evidence based practice and prevailing best practice.

6. Considering the overwhelming majority of Chiropractors are in support of having a Code of Conduct for the profession, it is remarkable that the CBA has been able to produce a document that is so widely unpopular with the profession it sets out to regulate? How has this possibly occurred? Why has it NOT occurred among other National Boards?

7. Other health professionals are able to refer patients for diagnostic imaging yet there is no mention of radiology guidelines in their regulations. Why does our Board see fit to discriminate against the chiropractic profession in contrast to other professions?

I wish to convey further remarks on various aspects of this document and will take it in order of its appearance in the document.

Definitions

You have chosen to offer your own definitions. This flies in the face of all reason and knowledge of the English language.
Comment: If you are to provide definitions, please make them accurate and please define all of the terms that you use.

'Patient' includes client, health consumer or carer".
Comment: Please tell me how you can define Patient as a client or health consumer or carer. What is your reference for such a definition? This equates to every person in society as being considered a "patient". In the context of chiropractic services there are many roles assumed ranging from patient (sick) to client, customer, consumer etc at higher levels of lifestyle care.
I submit that you define the recipients of chiropractic care more accurately.

"**Providing Care"**
Comment: By this statement you are casting the net of "care" to every interaction that a chiropractor may have with others
I submit that you define this more accurately.

"Practice"
Comment: Practice, by this definition includes every application of a chiropractors existence as it includes "non-clinical" relationships
I submit that you define this more accurately.

You have not attempted to define numerous areas of this document, which are ambiguous at best. For example, there is no definition for;
"Person"
"the Health Care System"
"Public Health"
"Health"

“Diagnosis”
“Treatment”
“Professional values”
“Treating Team”
Comment: So that people can understand and comply with the contents of this code it is imperative that the terms are defined.
I submit that you define the above terms.

Acknowledgements
Comment: You have omitted to give acknowledgement to the General Chiropractic Council (GCC) (UK) from which you have drawn heavily for this document.

Introduction
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: You are stating here that personal beliefs and values must acquiesce to an un-stated set of “Professional” values. What are these values? As the regulatory body, if you want to dictate what chiropractors think you must state what it is that they are to think. (See my request for a definition of “Professional values”).
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

a) and b) 'relevant'

Comment: If the patient has a problem that a chiropractor unearths by case history, observation, examination, imaging or other modes, then it is relevant regardless of the symptom presentation or the patient's desires. This may be a patient health/safety issue. It is certainly something that the patient would need to know, It matters not if the patient had this as a part of the presenting symptom picture or not. Not all problems originate at the site of symptoms. Chiropractors need to be encouraged to unearth the cause of symptoms and not arbitrarily limited to the region of pain. This imposed limit is potentially dangerous to the patient!
I submit that the term 'relevant' be defined clearly and to include findings both related and UNRELATED to symptomatic presentation.

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 be 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.

2.6 d) not providing unnecessary services

Comment: Non symptomatic care and unnecessary care are not the same thing.

I would think that provided the patient is made aware of the need/value and agrees to that care then all is good.
I submit to you that 'unnecessary services' be defined clearly with careful differentiation between unnecessary care and non-symptomatic care.

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: This is worded loosely and non-specifically. Does it refer to national emergencies, traffic accidents etc. 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 overly proscriptive and contradictory eg the chiropractor is "honest" and yet you state in 9.2 Professional boundaries "Good practice involves… d) avoiding the expression of a chiropractor's personal beliefs to patients …that are likely to cause them distress". Is the chiropractor to be honest or not say anything that would upset a 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 are these stakeholders, what information is considered relevant and under what conditions shall this information be shared?
I submit that you delete this sub-section

3.4 Confidentiality and privacy

e) (regarding genetic information)
Comment: In my opinion there is no need for this item. Where is the relevance to 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 to open a pandora's box of speculation not to mention fear induction.
I submit that you delete this sub-section

3.6 Informed financial consent – fees

f) "ensuring the amount, time and quality of care delivered does not differ for those patients (with similar conditions) on a pre paid financial agreement to those who are not".
Comment: Exactly how do you propose chiropractors are to ***ensure*** compliance with this request? Do Chiropractors employ a time keeper to ***ensure*** that everyone gets precisely the same based on similar (but not the same) conditions? Or is the word '***ensuring'*** to be interpreted loosely? If so, what other words or parts of this document are to be interpreted loosely?
I submit that this sub-section is deleted

g) "ensuring that the agreement is reviewed every 3 months or 12 visits whichever is the greatest"
Comment: Where is the stipulation in common law that requires financial agreements between consenting parties to be reviewed at this frequency – this requirement is an unnecessary impost on a business. As far as the visit number of 12 goes – where did this come from, where is the evidence that a review every 12 visits is "good practice"?
I submit that you delete this sub-section

3.7 Children and young people

"caring for children and young people brings additional responsibilities for chiropractors"
Comment: This is highly questionable as 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 and 3.7 to remain unchanged.

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 a hodge-podge of politically correct waffle. The responsibilities of chiropractors is to the individual in whatever shape of form they present.
I submit that this section is deleted

3.15 Working with multiple patients
Comment: This is a duplication of the Confidentiality and Privacy section.
I submit that this section is deleted

4.2 Acceptable levels of reliability and validity

Comment: "What is "acceptable"? By what criteria are these determined? Is acceptability overseas good enough to be acceptable here? If not, why not? How many papers are needed to indicate reliability and validity? If the tool is new how many are needed then? If I am trained to use a test but my neighbour chiropractor is not, why am I prevented from using a test because of my neighbour's ignorance? Where are the guidelines for acceptable levels of reliability and validity and the necessity for training in the use of these examination tools?"
As for the reference to 'necessary', on their own very few tests, procedures and diagnostic tools could be deemed "necessary". But put together they all go to form a picture of patient function/dysfunction and contribute to a more accurate diagnosis/analysis. All of the attempts at safeguards mentioned in the various sub-clauses of 4.2 are already covered in the finger waving clauses that say that chiropractors better act ethically. As if the vast majority wouldn't anyhow. Those that don't have the Common Law to face.
I submit that this section is deleted

5 Working with other practitioners

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 it's 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 are 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

6.4 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

c) "participating in systems for surveillance…".
Comment: for "Good Practice" to include surveillance by whatever means is intrusive and unnecessary.
I submit to you that this sub-section be deleted

9.2 Professional boundaries

d) “avoiding the expression of a 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

9.3 a) “the Board’s guideline on mandatory reporting at: www.chiropracticboard.gov.au”
Comment: Where is it? I couldn't find it. Is this a circular reference? Where are these? It is unreasonable for the profession to comment and commit on the totality of these guidelines if all of the documents referenced are not made available.
I submit to you that you make the documentation available in time for comments to be made or this section needs re-wording or deleting.

9.4 Health records
a) “keeping up-to-date and legible records that report relevant details of clinical history, clinical findings and determinations, investigations, information given to patients, medication and other management”
Comment: This is impractical for a chiropractor to constantly record (up-to-date) details of all information and medication given to a person from any source. Any information and medication that a patient has received that the chiropractor doesn’t know about or hasn’t recorded will be grounds for board action against the chiropractor.

f) “where a health record is to be changed…”
Comment: This sub-section does not allow for electronic records
I submit to you that this sub-section be changed to accommodate electronic records.

9. 6 a) Advertising
Comment: Where are “the Board’s Guidelines on Advertising which can be found at: www.chiropracticboard.gov.au” as stated? It is unreasonable for the profession to comment on the totality of these guidelines if all of the documents referenced are not made available.
I submit to you that you make the documentation available in time for comments to be made or this section needs re-wording or deleting.

9.10
Comment: The *responsibilities* are well defined but the *rights* are not. What “rights” does a chiropractor have in these situations?
I submit that you please inform me so that I may give an informed consent to this guideline.

9.12 Financial and commercial dealings
c) "not accepting gifts…"
Comment: Notifying a colleague of the receipt of a gift is an unnecessary impost
I submit to you that this sub-section be deleted

d) "not becoming involved financially with patients…"
Comment: This is totally unacceptable. By your definition of "patient" this would include every person in one's sphere of influence. So, a chiropractor can't have financial dealings with family including spouse/partner - hmm
I submit to you that this sub-section 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

10.3 Other practitioners health
a) "providing practitioners who are patients with the same quality of care provided to other patients"
Comment: This is overly prescriptive and states the obvious. Why would a chiropractor not give a peer a quality adjustment?
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.

Finally I submit that the Chiropractic Board of Australia amends the revised code to reflect the aforementioned changes.

Thank you for the opportunity to make comments on the "*Revised Code of Conduct Guideline*", I look forward to my concerns being addressed and reflected in the final Guideline.

Yours sincerely,

Norman C Nelson
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