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Dr Phillip Donato
Chair
Chiropractic Board of Australia
PO Box 16085
Collins Street West
Melbourne, Victoria 8007

RE: Proposed National Registration Guidelines

Dear Dr Donato,

I wish to make submission regarding the revised 'Consultation paper on codes and guidelines' circulated for public comment by the CBA.

1. Time Frame and lack of transparency.

The CBA stated that all submissions made pertaining to the first proposed draft would be published on its website. This has not happened. In fact, only twelve submissions made some time ago were published. This is unacceptable. This submission along with all others made for this draft and the preceding draft must be made publicly available. The fact that this simple step has not been undertaken demonstrates the lack of transparency and a stifling of debate.

As with the original guidelines, the time frame allowed for comment on the revised draft is patently insufficient for such an important document. Given that the Board itself has specifically highlighted the short time frame, I would submit that this alone is sufficient for the Board to adopt a 'minimalist' position such as has been adopted by the most analogous profession to chiropractic - osteopathy. In other words, the guidelines adopted should follow as closely as possible the generic template adopted by the other professions being nationally registered, primarily the Osteopathic Board of Australia. The guidelines should only diverge from the other guidelines to adopt sector specific terminology and minor unique issues.

2. Differences Between Professions.

The Health Practitioner Regulation National Law Act 2009 contains sentiment to the effect that professions 'competing' in the same health care 'market' must have a 'level playing field'. In fact, practitioners are effectively prohibited from making comparisons. The ACCC also is mandated to ensure 'competition' is fair. It is simply anti-competitive for our profession to be regulated in ways different to others competing in the same health care market. In fact, chiropractors have historically experienced organised opposition from political medicine, so this new regime should be a step

forward. However, it appears that the CBA is attempting to create an UN-level playing field through over-regulation and arbitrary requirements.

3. Role of the Board.

The guidelines proposed by the board demonstrably overstep its mandate, namely the protection of the public. The board is not mandated to intrude into issues of professional contention and debate. It is not equipped or able to make determinations as to evidence based practice and prevailing best practice. These, by definition, are evolutionary. The board is not mandated to protect the public from chiropractic 'per se', this is unnecessary since the evidence in the wider literature supports the contention that the profession is safe and cost-effective(Bishop 2007). The evidence is compelling that the public is better served with more, rather than less utilization of chiropractic services(Metz 2007 and Sarnat 2008). Rather, the public needs protection from unethical, criminal or unscrupulous individuals. This false impression however is the tenor of the guidelines, particularly those on radiology, advertising, children and spinal screenings.

4. Radiology Guidelines.

Other health professionals have equal or greater referral privileges for diagnostic imaging under medicare yet no mention of radiology guidelines in their equivalent guidelines. Matters of radiology standards for those practitioners performing their own imaging are still dealt with by state radiological councils and medicare and are thus outside the mandate of the CBA. Many physiotherapists use in office diagnostic ultrasound, yet Physiotherapy Board of Australia (PBA) has taken a *laissez-faire* approach rather than trying to regulate every foreseeable aspect of clinical practice. This whole section is superfluous and must be deleted in its entirety.

5. Frequency of care.

Possibly one of the most absurd sections in the entire document is section 3.6 Informed financial consent - fees items g and h along with Appendix 3 regarding frequency of care. The proposition that pre-paid agreements should not extend beyond twelve visits is not based on any evidence or best practice guidelines. I ask, why not thirteen visits, twenty visits or thirty six? This is an impost that unfairly affects patients who have chosen to see a chiropractor for rehabilitation. It is common place for physiotherapists to see a patient three to four visits per week for many months, sometimes years, when utilising rehabilitative protocols. THERE IS NO EQUIVALENT SECTION IN THE PHYSIOTHERAPY BOARD PROPOSED GUIDELINES. As such we are not facilitating a level playing field and in breach of mandate laid down by the government. So all chiropractors must be trained in physiotherapeutic techniques, are able to under further post-graduate study in rehabilitation but are not allowed to have a patient pre-pay for more than twelve visits. This is a non sequitur.

There is also an implied opposition to maintenance care within Appendix 3 of the proposed guidelines. *6. Should any patient elect to undergo regular chiropractic examination or treatment in the absence of symptoms it is the responsibility of the practitioner to provide the patient (parent /guardian for children) with a balanced view of the clinical justification for such procedures.* The board is supposed to be representative of the profession it regulates. Australian research has shown that two thirds of the australian chiropractic profession support asymptomatic maintenance care (Jamison, 2001). If the authors of the guidelines do not support maintenance care then that is their prerogative but as part of a minority group within the wider profession they should not be seeking to change clinical practice of the rest of the profession by stealth. These arbitrary regulations must be deleted.

6. Spinal Screenings.

Specific references to spinal screenings are also unnecessary and lacking in references from the peer reviewed scientific literature. In fact recent research from New Zealand indicates the public benefits and is broadly supportive of the role of spinal screenings. The wording of the guideline in appendix one of the proposed document is non-sensical. Many 'spinal screenings' do not even involve a chiropractor touching the patient or 'provide an overview of the general state of their posture' but merely make themselves available to answer questions or misconceptions regarding chiropractic whilst also legitimately promoting their local business. The guidelines should delete all references to spinal screenings from the document.

7. References to Paediatric Patients.

There is a recurrent theme in both the first and second drafts of the proposed guidelines of items that specifically refer to working with children etc. As this constitutes a significant part of guidelines, it would be reasonable for both the profession and AHPRA to have an expert on the sub-committee making such important guidelines for the profession. On the contrary, there was an over representation on the subcommittee of individuals who were responsible for attempting to implement radical changes pertaining to chiropractic and children in Victoria. Interestingly, an unprecedented vote of no confidence motion was passed by the profession in that state against the state board and yet the same individuals were parachuted into the subcommittee charged with developing appropriate guidelines for the whole nation. It is unsurprising that similar themes emerged which are just as unacceptable to the rest of the australian profession as they were to the Victorian chiropractors. None of these members have any qualifications that are accepted within the profession such as a Masters in Chiropractic Paediatrics or even a diplomate of any relevant organisations such as the DICCP from the International Chiropractic Association or DICPA from International Chiropractic Pediatric Association. As such these members of the subcommittee are not qualified to make any such guidelines relating to chiropractic paediatrics. The board must appoint a member from the profession who possesses a relevant qualification limited to those aforementioned.

General Comments

Why has our board, uniquely among the national boards, taken a course so patently unpopular with the profession it sets out to regulate?

The board must be aware of the pluralistic nature of the chiropractic profession. This is a strength, as there is no one-size fits all approach. The spirit of innovation, free market operation and the imperative of the public good is under threat by the second draft of the proposed guidelines. The board should also by now be mindful of the militant mood within the profession toward many deeply unpopular aspects of the proposed guidelines. It should also be cognizant of the fact that it has a responsibility to represent the views of the majority and not those of a minority, even if individual board members happen to share such a minority professional paradigm or 'world view'. The guidelines can evolve in the future to reflect issues as they arise. The role of the board is to protect the public from dangerous practice and unethical behavior of individuals on a case by case basis. It is not the role of the board to re-invent the chiropractic profession and force a style of pain based relief care as advocated by the authors of these proposed guideline, at least one of whom has very little experience in the actual clinical practice of chiropractic beyond academia.

Summary proposal:

1. That the members of the sub-committee charged with drafting the proposed guidelines be changed as there is an over-representation of Victorians and a chiropractor who has specific post graduate qualifications in chiropractic paediatrics be appointed since a recurrent theme of the guidelines relates to children.

2. The regulations governing the practice of chiropractic in Australia be drafted so as to reflect guidelines and regulations governing the Osteopathic and Physiotherapy professions in Australia with minor alterations that reflect chiropractic sector specific issues. Anything less than this stipulation will contravene the mandate laid down to the board to create a 'level playing field'.

3. I also hold grave concerns about sections in the guidelines that reflect aspects of the Health Practitioner Regulation National Law Act 2009. Whist I recognise the scope of the proposed guidelines does not extend to changing the above Act, I would like to go on record as voicing concern as to aspects of guidelines that reflect that Act.

A. Advertising and comparisons are part of any healthy democracy and capitalist system and the act and its implementation in these guidelines will stifle the right of individual chiropractors to make the public aware of their services.

B. The provisions of mandatory notification and complaints have the potential to overload the system due to mischievous, vexatious, and outright jealousy issues between practitioners and also the public and other professionals. The recent events in the UK bear testimony of this. The guidelines could contain 'common sense' provisions.

Thank you for consideration of my submission, I look forward to its inclusion of the CBA web-site along with the previous submission regarding the first draft.

Sincerely yours,

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