Consultation Paper on Codes and Guidelines

Issued by:

CHIROPRACTIC BOARD OF AUSTRALIA

Submission by:

AUSTRALIAN SPINAL RESEARCH FOUNDATION

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Dear Sir,

Re: Consultation Paper on Codes and Guidelines

I write on behalf of the Board of Governors of Australian Spinal Research Foundation.

I refer to the above Paper and express appreciation for the opportunity to provide comment.

By way of background I wish to provide the following information on our foundation.

OVERVIEW – AUSTRALIAN SPINAL RESEARCH FOUNDATION

The Australian Spinal Research Foundation (*Spinal Research*) is a non-profit, grant-making, research foundation. Our focus is chiropractic research.

Spinal Research was incorporated in1976 and is a company limited by guarantee under Australian Corporations Law.

Spinal Research is registered as Charity No. 1193 under the Queensland Collections Act, is approved Deductible Gift Recipient (DGR) under the Australian Income Tax Assessment Act 1997 (Section 30-15, Research Institute), is exempt from Stamp Duty under the Duties Act 2001 and is an Income Tax Exempt Charity (Section 50-5).

Our Mission is to fund research and disseminate knowledge that furthers the understanding, development and effectiveness of chiropractic care.

To date, the Foundation has funded 176 research projects and granted research funds in excess of A$1.5m. Australian Spinal Research Foundation is now the largest grant making body, internationally, for chiropractic research. Spinal Research supports and encourages publication of research in the scientific literature. Progress on funded research is reported at scientific symposia, conferences, within newsletters, and through other media.

Australian Spinal Research Foundation is managed by an honorary Board of eleven Governors elected by the membership. The Board upholds governance principles concerned with the structure, systems and processes that ensure the overall direction, effectiveness, supervision and accountability of the foundation.

Spinal Research's activities are across these key responsibilities:

- Understanding and acknowledging the landscape in which we operate and factors impacting on chiropractic research
- Creating a collaborative environment with stakeholders to help grow the chiropractic research community and research outcomes
- Generating funds for direct grant making

- Managing a best practice peer review process for grant applications
- Communicating relevant research from various sources to chiropractors, clients, educators, influencers, legislators and the media.

COMMENTS - CONSULTATION PAPER ON CODES AND GUIDELINES

It is noted this Paper has been developed under the requirements of the Health Practitioner Regulation National Law Act 2009.

Guidelines for Advertising of Regulated Health Services

It is understood these guidelines have been developed jointly by the national boards under section 39 of the Health Practitioner Regulation National Law Act 2009 and apply to registered health practitioners, which includes chiropractors.
In addition we note the requirement for advertising to comply with Trade Practices Act 1974 and various State based Fair Trading Acts.

1. We draw attention to the following extract (p1);

The relevant sections of the National Law that apply to the regulation of advertising of regulated health services are set out in Attachment 1: Extract of relevant provisions from the Health Practitioner Regulation National Law Act 2009. In particular, s. 133 of the National Law states that 'a person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that -

a). is false, misleading or deceptive or is likely to be misleading or deceptive; or

b). offers a gift, discount, or other inducement to attract a person to use the service or the business, unless the advertising also sets out the terms and conditions of the offer; or

c). uses testimonials or purported testimonials about the service or business; or

d). creates an unreasonable expectation of beneficial treatment; or

e). directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.'

And ……. (p2)

Advertising also includes situations in which practitioners make themselves available or provide information for media reports, magazine articles or advertorials, including where practitioners make comment or provide information on particular products or services, or particular practitioners.

Whilst the guidelines are expansive about what constitutes advertising and highlights points a) through e) we express concern about a lack of clarity and definition for the expression *"unnecessary use"* in point e). What constitutes *"unnecessary use"*?

Is a chiropractor who provides comment on chiropractic in a media report or magazine article (or in similar media captured under the definition of "advertising") which purports chiropractic has a positive influence on health in breach of encouraging *"unnecessary use"* or conversely, is the chiropractor complying with point o) in section 4 *"What is acceptable advertising?"* which states advertising may contain …….. *"any statement providing public health information encouraging preventative or corrective care"*?

2. In reference to Section 6.5 *"Advertising of price information"* (p7)

The final point in this section (6.5) states that practitioners *"must not advertise time-limited and special offers."*

Members of the chiropractic profession often assist in fundraising for chiropractic research by conducting spinal postural assessments. This Paper acknowledges this practice and contains information within this Paper's guidelines *"Working with the broader community"* (Code of practice for chiropractors in Australia, p14.). I note that clause 5.1.4 provides authority for practitioners to accept donations.

Spinal Research therefore considers an activity involving spinal postural assessments (or typically very similar activities) where donations may be accepted in lieu of fees does not constitute a breach of 6.5 "Advertising of price information".

Code of Conduct for Registered Health Practitioners

Section 8

In reference to Sub-section 8.12 Financial and commercial dealings, clause *e) not pressuring patients or clients or their families to make donations to other people or organisations*
We are concerned about the use of the term "*pressuring*" in this clause and the ambiguity this creates about encouraging donations, by influence, to an organisation such as ours.

There are so many instances where members of our Board of Governors or others, as registered Doctors of Chiropractic, influence fellow members of the chiropractic profession or even patients to contribute to chiropractic research by making a donation or contributing in other ways.

Dictionary.com describes "pressuring" within a similar context as follows: to force (someone) toward a particular end; **influence**: *They pressured him into accepting the contract*.

We believe "influence", in its various forms, is necessary and appropriate in fundraising. We request that this clause be re-drafted to accept the use of influence.

Section 11 – Undertaking research

I note the guidelines at 11.2 *"Research Ethics"*. It is recognized these guidelines are drawn from the National Health and Medical Research Council Act 1992 (Cwlth) (*NHMRC*) and are not the complete set of guidelines laid down by NHMRC.

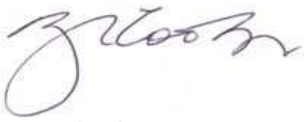
Our Board believes a more comprehensive statement of compliance with NHMRC guidelines is appropriate within this document.

Guidelines on continuing professional development

I note that *"undertaking research and presenting of work"* is listed amongst complying formal learning activities. In addition, "research" is listed as a complying informal and incidental learning activity. Our Board suggests greater definition be applied to these activities. We draw your attention to the Chiropractors Association of Australia's "CAA National Guidelines for Continuing Professional Development for Chiropractors" which provides wider explanation of complying activities. We see this as indicative of providing greater clarity on complying activity.

On behalf of the Board of Governors I thank you for the opportunity of consultation and input. Our Board seeks a collaborative and mutually beneficial relationship with the Chiropractic Board of Australia.

Yours sincerely,



R. L. Cook, FIIDM
Chief Executive Officer