

## Public consultation

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7 October 2013

Guidelines for the further education and training of chiropractors when required by the National Law

### About this public consultation

The Chiropractic Board of Australia (National Board) invites you to provide feedback on this consultation paper on the proposed *Guidelines for the further education and training of chiropractors when required by the National Law*.

The draft guideline can be found at **Attachment 1**.

The National Board has powers under the National Law<sup>1</sup> to develop and approve guidelines about issues relevant to the regulation of chiropractors after wide ranging consultation about its content.

This is a public consultation paper. The public consultation phase will be widely communicated in the National Board's communiqué and website. The National Board will consider the feedback received in this phase of consultation.

### Making a submission

You are invited to provide written comments on the content of the draft guidelines or make a written submission to [chiroboardconsultation@ahpra.gov.au](mailto:chiroboardconsultation@ahpra.gov.au) by **29 November 2013**

The National Board welcomes feedback on whether the proposed framework is sufficiently clear, and whether there are omissions in either the document or the process that should be addressed?

More information about making submissions is available on page 3.

### How your submission will be treated

Submissions will generally be published unless you request otherwise. The National Board publishes submissions on their website to encourage discussion and inform the community and stakeholders. However, the National Board retains the right not to publish submissions at their discretion, and will not place on their website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of this consultation.

Before publication, the National Board may remove personally-identifying information from submissions, including contact details. The views expressed in the submissions are those of the individuals or

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<sup>1</sup> Section 39 of the Health Practitioner Regulation National Law, as in force in each state and territory

organisations who submit them and their publication does not imply any acceptance of, or agreement with, these views by the National Board.

The National Board also accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cwlth), which has provisions designed to protect personal information and information given in confidence.

Please let the National Board know if you do not want your submission published, or want all or part of it treated as confidential.

## Summary of issues

### Purpose of the proposal

The National Board has developed the draft *Guideline for the further education and training of chiropractors when required under the National Law* (the guideline) at Attachment 1.

Its aim is to standardise the National Board's approach and provide guidance on how further education requirements can be undertaken in an appropriate, consistent and professional manner.

### Options statement

The National Board considered a number of options in developing this proposal.

#### Option one – No change

Option one would be to not systematise and standardise the process for the further education and training of practitioners when required under the National Law.

Taking this option would leave the development of the structure and content of required further education and training programs at the discretion of the various delegated authorities involved in making and administering such decisions (including AHPRA, professional standards panels and disciplinary tribunals). These programs may or may not consistently include specified learning outcomes, reporting requirements or clear statements about the obligations of all parties involved in the process.

With three years of experience of the National Scheme, variability in approaches has been noted. The National Board believes that both practitioners and the public will be better served by a more consistent and reliable processes as set out in option two.

#### Option two – Develop guidelines for the further education and training of chiropractors

Option two, the **preferred option**, is to develop guidelines for further education and training of chiropractors when required by the National Law

The National Board notes that there is a lack of suitable further education programs available to practitioners, and that most require the development of customised programs. This guideline seeks to promote consistent and reliable processes that have been demonstrated to provide appropriate learning outcomes for practitioners requiring further education under the National Law. The National Board has drawn from the experiences of the former state regulation schemes that managed this activity before the National Scheme.

The reporting process included in the guideline will provide the National Board with a monitoring tool, and assurance that learning outcomes are being achieved.

These guidelines are not intended to impose additional regulatory or threshold requirements on chiropractors. They aim to provide a framework for consistency and guidance on further education and training when required by the National Law.

### Background considerations

The National Board has developed this draft guideline to support the development of customised further education programs and the administration of these programs by AHPRA state and territory offices.

Chiropractors, for a variety of reasons, may be required by the National Board under the National Law to undertake further education and training.<sup>2</sup> Further education and training can be used to rehabilitate or restore a practitioner's skills in one or more areas of their professional practice. It can also retain practitioners as safe and effective member of the chiropractic health workforce.

The draft guideline will apply to further education for practitioners who are in not in clinical practice as well as those who are in clinical practice.

Whether or not a practitioner should remain in clinical practice whilst requiring further education is a separate threshold decision to be made by a decision making body under the National Law. These guidelines do not support or inform that decision. Should concerns arise about a practitioner's suitability to remain in clinical practice during the education and training process, there are reporting mechanisms set out in the guideline so that appropriate action can be taken by the National Board to ensure the safety of the public.

The draft guideline provides for regular reporting to enable the National Board to monitor a practitioner's progress and take appropriate action if satisfactory progress is not made, or if reasonable outcomes are not achieved. To assist and manage the small administrative burden associated with this, reporting templates are included in this guideline.

The National Board is conscious that there is a lack of suitable educational resources - external to the National Board and AHPRA - to provide specific further education and training for chiropractors. This has created a need for 'customised' programs to be created case by case. The National Board believes that a mentoring or counselling relationship with clearly defined learning objectives is the most appropriate structure for professional learning to take place. Whether a mentoring or counselling type relationship is appropriate will be determined on the circumstances of each individual case. A customised approach is more efficient – in time and money- as it can be tailored to address the chiropractor's individual learning needs and deliver the prescribed learning outcomes required.

The National Board proposes that the cost burden should remain with the individual who requires the further education and training. A 'user pays' approach was also adopted in most states and territories prior to the National Scheme

This guideline differs from the *Guidelines for the supervision of chiropractors* in that it aims to support the achievement of defined learning outcomes and objectives as set out in an approved further education and training plan. It does not aim to supervise the professional performance of a practitioner until satisfactory competence is observed by a supervisor.

The draft guideline provides guidance on the:

- principles of further education and training requirements and responsibilities of the parties
- standardised arrangements to undertake further education and training, and
- reporting requirements.

This guideline does **not** cover:

- mentoring, counselling or further education of students
- mentoring or counselling of practitioners by universities, employers or professional bodies, nor
- supervision of practitioners under an approved supervised practice plan.

## Making a submission

If you wish to provide comments on this draft paper, please provide written comments in electronic form (in word format preferably) to [chiroboardconsultation@ahpra.gov.au](mailto:chiroboardconsultation@ahpra.gov.au) by close of business on **29 November 2013**

Submissions by post should be addressed to the Executive Officer, Chiropractic Board of Australia, AHPRA, GPO Box 9958, Melbourne, 3001 by close of business on **29 November 2013**

## Attachments

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<sup>2</sup> Under sections 83, 179, 191, and 196

The draft *Guideline for the further education and training of chiropractors when required under the National Law* is at [Attachment 1](#)

For the purposes of consultation, the National Board has provided a *Statement of assessment against AHPRA's Procedures for development of registration standards and COAG Principles for best practice regulation* at [Attachment 2](#) to provide additional clarity on the National Board's consideration of this matter.

Consultation

## Draft Guidelines for the further education and training of chiropractors when required under the National Law

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7 October 2013

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### What these guidelines are for

This guideline applies to any required further education and training of chiropractors, under the provisions of the National Law.<sup>3</sup> This further education is mainly to be carried out by registered chiropractors for registered chiropractors, although other professionals with specific expertise may also be required to conduct this activity in certain circumstances.

This guideline is permissible in proceedings under the National Law. It may be used as evidence of what constitutes appropriate professional conduct or practice for the chiropractic profession in proceedings against a chiropractor under the National Law

The sections of the National Law relevant the development and use of this guideline are set out in **Appendix 1**.

### Purpose

The purpose of this guideline is to provide guidance about the further education and training of practitioners, under the provisions of the National Law. This guideline provides a framework to support the management of customised further education and training programs for practitioners to take place in a counselling or mentoring relationship as appropriate.

This guideline supports these processes so that they are:

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<sup>3</sup> *Health Practitioner Regulation National Law, as in force in each state and territory (the National Law)*

- safe
- effective
- reliable, and
- consistent.

It is important to note that these processes and the scope of this guideline are separate and distinct to the process of supervision and the scope of the National Board's *Guidelines for the supervision of chiropractors*.

Practitioners may be required by the National Board<sup>4</sup> to undertake further education and training for a variety of reasons.

The National Board believes that a mentoring or counselling relationship with clearly defined learning objectives is an appropriate model in most circumstances for the further education of registered chiropractors when so required under the National Law. This guideline may not be applicable where more formal or didactic further education is required by a practitioner.

## Summary

This guideline provides guidance on the:

- principles of further education and training
- requirements and responsibilities of the parties
- standard form of agreement for further education and training, and
- reporting requirements, including templates.

The National Board endorses the principles of restorative and rehabilitative justice and therefore supports the application of educative, and compliance based approaches when it is appropriate to do so.<sup>5</sup>

## Part 8 of the National Law

The need for a chiropractor to undertake further education and training may become apparent from a health, conduct or performance process under Part 8 of the National Law. For example it may arise from a Tribunal or Professional Standards Panel hearing.

The National Board considers that in many cases, further education is an opportunity for skill restoration and/or behaviour change in a practitioner who has been found to have engaged in unsatisfactory professional conduct, professional misconduct or unsatisfactory professional performance in one or more areas of their professional practice.

Whether or not a practitioner is suitable to remain in clinical practice with identified weaknesses or deficiencies is a threshold decision to be made by a decision making body under the National Law, separate to the operation of this guideline. These guidelines do not intend to support or guide that decision. This draft guideline applies to practitioners who are in clinical practice, supervised clinical practice or not in clinical practice.

As part of the disciplinary process, the provisions of s178 of the National Law provide that the National Board or its delegate may:

- accept an undertaking from a practitioner
- impose conditions on a practitioner's registration, including, for example, in relation to a practitioner:
- a condition requiring the practitioner to complete specified further education or training within a specified period
- a condition requiring the practitioner to do, or refrain from doing, something in connection with their practice
- a condition requiring the practitioner to report to a specified person at specified times about their practice

## Part 7 of the National Law

<sup>4</sup> Under sections 83, 179, 191, and 196 of the National Law

<sup>5</sup> Public risk is a key determinant in deciding on the application on an educative approach.

The need for a chiropractor to undertake further education and training may arise as part of the registration processes described in Part 7 of the National Law. For example, it may arise because of questions about a practitioner meeting the requirements of a registration standard, a change in their type of practice, or concerns about a practitioner's suitability for registration. The National Law gives the National Board the power to impose conditions on the registration of a practitioner, including the requirement for the practitioner to undertake further education and training.

## Scope

The range of registration and notification matters under the National Law to which this guideline may apply, may include but not be limited to practitioners who:

- are returning to practice after an absence and do not comply with the requirements of the National Board's *Recency of practice registration standard*
- have a condition or undertaking that requires them to undertake further education and training
- intend to make a significant change to their practice to a different field or scope, and/or
- are required to undertake further education and training as the result of a conduct, health or performance process under the National Law.

These guidelines apply to both the Board approved person providing the further education and training and the practitioner receiving it.

The scope of this guideline **is not** intended to cover:

- mentoring, counselling or further education of students
- mentoring or counselling of practitioners by universities, employers or professional bodies, nor
- supervision of practitioners under an approved supervised practice plan.

## Definitions

**Practice** means any role, whether remunerated or not, in which the individual uses his/her skills and knowledge as a health practitioner in the profession. For the purposes of National Board's *Recency of practice registration standard*, practice is not restricted to the provision of direct clinical care. It also includes working in a direct non-clinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession and/or uses the individual's professional skills.

**Mentoring** is a developmental partnership through which one practitioner (mentor) shares knowledge, skills, information and perspective to foster the personal and professional growth of another practitioner.<sup>6</sup> The mentoring relationship is generally considered by the National Board to be more interactive and less formal than that of a supervisor role and has different responsibilities and obligations. For the purposes of this guideline, mentoring is required to take place to achieve defined learning outcomes and objectives as set out in the approved further education and training by mentoring and/or counselling plan.

A **Board approved person** is a suitably qualified and experienced practitioner that is approved by the Board for the purpose of further education. They must be an experienced registered practitioner, with a minimum of three years' practice as a registered practitioner and not be subject to any conditions, undertakings or reprimands that might impact their ability to be an effective educator/mentor/counsellor. Only in appropriate circumstances would a health practitioner who is not a chiropractor be considered as a Board approved person, such as for counselling or further education on specific content or in very remote locations.

The National Board maintains a list of approved persons in each state and territory for the purposes of further education. Additional persons may be appointed to this list if required. The Board approved person has a responsibility to adhere to the agreement he or she enters into with the National Board to administer the approved plan.

The **practitioner** is the registered practitioner who receives the further education by mentoring and/or counselling from the Board approved person in accordance with an approved further education and training plan.

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<sup>6</sup> <http://cmcismmentorprogram.wordpress.com/mentoring-program-manual/definition-of-mentoring>, accessed 29 May 2012

**Counselling** in this context is a learning-oriented process, which occurs usually in an interactive relationship between a counsellor and a counselee; with the aim of helping a practitioner learn more about themselves, and to use such understanding to become an effective member of their health care profession<sup>7</sup>. For the purposes of this guideline, the counselling is to take place to achieve defined learning outcomes and objectives as set out in the approved further education by mentoring and/or counselling plan.

An **approved further education and training plan (approved plan)** is a plan that is agreed between the Board approved person and the practitioner which sets out the outcomes and objectives of the required further education and training plan and is subsequently approved by the National Board.

**Further education and training** for the purposes of this guideline is further education and training by a Board approved person under an approved plan that is distinct from that provided by an educational institution.

A **Board approved person's report** is a document submitted in the format approved by the National Board at the intervals agreed in the approved plan and details progress against the approved plan.

## 1. Principles of further education and training

The National Board's expectations of the arrangements for further education and training are outlined in the following principles.

- a. It is each practitioner's professional responsibility to work within the limits of their competence, and to reflect on and understand their own learning needs.
- b. For all Board approved persons, the type and level of further education and training undertaken by the practitioner must be matched to the individual learning needs of the practitioner.
- c. The Board approved person and the practitioner must agree on the duration and content of the learning plan and the reporting requirements, unless determined by a decision making body.
- d. All plans must be then approved by the National Board before commencement.
- e. The onus rests with the practitioner to ensure the reporting requirements are met as agreed in the approved plan.
- f. The Board approved person accepts a professional responsibility to the National Board to properly provide further education and training as specified in the approved plan and comply with the reporting requirements of that plan.
- g. The Board approved person is not responsible for the clinical care, or oversight of the clinical care, provided by the practitioner unless specifically provided for in the approved plan.
- h. At all times, the Board approved person will bear in mind the principles of respect, fairness, flexibility, reliability and validity in their management of this program. Given both the vocational and practical nature of such programs, and because they relate to professional practice, it is appropriate that competency based approaches and first professional competency standards apply to these programs.

## 2. Further education and training activities

The further education and training activities outlined below are designed to ensure that the learning outcomes and objectives of the approved plan are achieved. The activities chosen will depend on a number of factors to be considered by all parties involved in the development of an approved plan. Further education and training activities should be specified in the approved plan.

These factors include, but are not limited to the:

- purpose of the required further education and training
- stated objectives and outcomes of the approved plan, including reasons for the requirement
- previous practice experience, qualifications, skills, competence, suitability and other attributes of the practitioner

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<sup>7</sup> [www.unesco.org/education/mebam/module\\_2.pdf](http://www.unesco.org/education/mebam/module_2.pdf) (contextually modified), accessed 29 May 2012

- experience, skills and qualifications of the Board approved person, and
- level of risk associated with the purpose of the further education and training requirement.

Activities include, but are not limited to:

- fault finding
- role plays
- verbal questioning
- verbal presentations
- written presentations
- group discussions
- preparation of reports, assignments or other written material
- review of documents and readings
- self assessment/critical reflection, and/or
- portfolio compilation.

### 3. Requirements and responsibilities

#### 3.1 Requirements for Board approved persons

A Board approved person is expected to:

- meet the requirements specified in the definition of a Board approved persons
- agree to act as a Board approved person
- be approved by the National Board, and
- have appropriate Professional Indemnity Insurance coverage.

The relationship between the Board approved person and practitioner must be professional. The Board approved person should be mindful of the requirements of teachers, supervisors and assessors as set out in section 11 of the *Code of conduct for chiropractors*<sup>8</sup>.

Good practice involves avoiding any potential for conflict of interest in the mentoring and/or counselling relationship. For example, counselling someone who is a close relative or friend, or where there is another potential conflict of interest, could impede objectivity and/or interfere with the practitioner's achievement of the learning outcomes.

It is critical that the Board approved person has adequate time for this role. Accordingly, if a Board approved person proposes to provide mentoring and/or counselling for a number of practitioners, the National Board may seek assurance from them that they have the capacity to provide an appropriate commitment to each practitioner.

#### 3.2 Responsibilities of the Board approved person

The responsibilities of the Board approved person include the following:

1. Taking reasonable steps to ensure that the practitioner is practising safely, such as through:
  - directly observing the practitioner (if applicable)
  - undertaking individual case reviews, and
  - remediating problems identified during the conduct of the approved learning plan.
2. Providing the further education specified in the approved plan
3. Providing clear instruction, constructive feedback and being clear about the requirements of any tasks or activities to be undertaken.
4. Ensuring that the practitioner is complying with the approved plan and reporting to the National Board if he/she is not.

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<sup>8</sup> Available at [www.chiropracticboard.gov.au/Codes-Guidelines.aspx](http://www.chiropracticboard.gov.au/Codes-Guidelines.aspx)

5. Alerting a practitioner to:
  - their responsibilities as a health care professional
  - the constraints within which they must operate
  - the ethical principles that apply to the profession, and
  - the expectations that apply to a registered health care professional.
6. Understanding the significance of further education and training as a professional undertaking and committing to this role including regular, one-on-one, time with the practitioner (which is free from interruptions) as scheduled in the approved plan.
7. Disclosing any potential conflict of interest to the National Board, for example a personal relationship or business partnership with the practitioner<sup>9</sup>
8. Being accountable to the National Board and providing honest, accurate and responsible reports in the approved form at intervals determined by the approved plan.
9. Understanding that the type and amount of further education required within the framework of the approved plan may need to be informed by their assessment of the practitioner.
10. Only requiring tasks to be undertaken that are appropriate to the identified learning outcomes and objectives; and that are within the scope of training, competence and capability of the practitioner.
11. Maintaining adequate written records of the practitioner's program to assist in transition if there is an unexpected need to change the Board approved person.
12. Notifying AHPRA or the National Board immediately if:
  - the relationship with the practitioner breaks down
  - there are concerns that the practitioner's clinical performance, conduct or health is placing the public at risk
  - the practitioner is not complying with conditions imposed or undertakings accepted by the National Board or is in breach of any requirements on their registration
  - the practitioner is not complying with the requirements of the approved plan or there are significant changes to those requirements such as extended absences
  - they are no longer able to provide the level of engagement that is required by the approved plan.
- issues arise that may be subject to the prescribed mandatory reporting requirements of the National Law as set out in the *Guidelines on mandatory reporting* issued by the National Board.<sup>10</sup>

Should a Board approved person fail to properly discharge their obligations under these guidelines and the approved plan, the National Board may consider revoking their status as a Board approved person or taking other action.

The Board approved person is only responsible for the professional conduct and performance of the practitioner as set out in the approved plan.

### **3.3 Responsibilities of the practitioner**

The responsibilities of the practitioner are as follows:

1. In conjunction with the Board approved person, understanding:
  - their own learning needs

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<sup>9</sup> A personal relationship or business partnership between the mentee/counselee and mentor/counselor is not encouraged but will be considered in context by the Board and may be accepted in limited circumstances such as remote locations etc.

<sup>10</sup> [www.chiropracticboard.gov.au/Codes-Guidelines.aspx](http://www.chiropracticboard.gov.au/Codes-Guidelines.aspx)

- the context of the need for further education and training, and
  - any other issues that may affect an effective mentoring/counselling relationship
2. Taking joint responsibility for establishing a schedule of regular meetings with the Board approved person and making all reasonable efforts to ensure that these meetings take place.
  3. Being adequately prepared for meetings with their Board approved person.
  4. Participating in activities prescribed by the Board approved person to assist determining their future needs and progress.
  5. Advising the Board approved person immediately of any issues or clinical incidents during the period of the approved plan, which could adversely impact on patient care.
  6. Reflecting on and responding appropriately to feedback.
  7. Informing the National Board and Board approved person if the requirements of their approved plan are not being met or if the relationship with the Board approved person breaks down.
  8. Informing the Board approved person and National Board of any leave or breaks in practice that may impact on the requirements of the approved plan.
  9. Notifying the National Board in writing within seven (7) calendar days if the approved Board approved person is no longer able to provide the functions required in the approved plan.
  10. Providing remuneration to the Board approved person (if applicable).

Should the practitioner fail to properly discharge their obligations under these guidelines and the approved plan, the National Board may consider disciplinary or other action.

#### 4. The Further education and training plan ( approved plan)

The further education and training plan (approved plan) contains:

- general information about the parties involved, and
- the learning plan.

The recommended content and a template for the development of the approved plan are set out in Part B of **Appendix 2**.

##### 4.1 Developing the learning plan and setting reporting requirements

The learning plan sets out the:

- further education and training requirements
- proposed learning outcomes and activities, and
- reporting to the National Board or its delegate.

The approved plan must be approved by the National Board prior to commencing the further education and training. The National Board retains the discretion to amend any aspect of a proposed further education and training plan, including the nominated Board approved person.

There should not be any break in the proposed plan of greater than four weeks without prior approval of the National Board. A break of greater than four weeks without approval may be deemed to be non-compliance with the agreement.

#### 5. Reporting requirements

The reporting requirements must be included in the approved plan. However, the National Board may, at any time, exercise discretion about the frequency and structure of any report by advising all parties accordingly.

The approved plan will specify:

- the frequency of reporting
- the content and supporting evidence of progress required in each report, and

- the format of the report.

Reports will be required from both the practitioner and the Board approved person. A Board approved person may at any time provide a verbal report to the National Board if there are immediate concerns with the progress, conduct or performance of the practitioner

Typically, the standard reporting schedule would involve:

- an initial report from both parties after the first month
- reports from both parties every three months, and
- a summary report from both parties on completion of the program.

Both the Board approved person's and practitioner's respective reports should provide detail on the progress made against the requirements listed in the approved plan. They should also explain whether or not the objectives of the approved plan are being achieved - and if not, the measures that need to be implemented to address these deficiencies.

Reports should also include any emerging issues identified by either party. Copies of any report should be provided to all parties.

A reporting template is provided at **Appendix 3**.

## 6. Changes in arrangements

It may be useful to include an alternative Board approved person when further education is initially arranged. This person can take over as the Board appointed person should the Board appointed person be unable to fully discharge their duties. The alternative person will automatically be able to assume the Board approved person's duties if required. e.g. significant illness or substantial period of leave

When an alternative Board approved person takes over an existing approved plan the practitioner should:

- notify the National Board in writing of change the Board approved person, no less than seven calendar days before the proposed date of change or within seven calendar days of any unexpected absence of the Board approved person (such as due to illness), and
- provide the proposed new Board approved person copies of:
  - any previous reports by both the practitioner and Board approved person, and
  - any previous approved plan(s).

A new Board approved person must be approved by the National Board before they can take over an approved plan.

## Review

The Board will review this Guideline at least every five years.

Date of issue:  
Date of review:  
Last reviewed:

## Appendix 1

The guidelines for the *Further education and training of chiropractors by when required under the National Law* have been developed by the Chiropractic Board of Australia (the National Board) under section 39 of the Health Practitioner Regulation National Law Act (the National Law) as in force in each state and territory.

### Health Practitioner Regulation National Law Act 2009

#### Part 5 Division 3 Registration standards and codes and guidelines

##### 39 Codes and guidelines

A *National Board* may develop and approve codes and guidelines—

- (a) to provide guidance to the health practitioners it registers; and
- (b) about other matters relevant to the exercise of its functions.

##### 40 Consultation about registration standards, codes and guidelines

- 1) If a *National Board* develops a registration standard or a code or guideline, it must ensure there is wide-ranging consultation about its content.
- 2) A contravention of subsection (1) does not invalidate a registration standard, code or guideline.
- 3) The following must be published on a *National Board's* website—
  - (a) a registration standard developed by the Board and approved by the Ministerial Council;
  - (b) a code or guideline approved by the *National Board*.
- 4) An approved registration standard or a code or guideline takes effect—
  - (a) on the day it is published on the *National Board's* website; or
  - (b) if a later day is stated in the registration standard, code or guideline, on that day.

##### 41 Use of registration standards, codes or guidelines in disciplinary proceedings

An approved registration standard for a health profession, or a code or guideline approved by a *National Board*, is admissible in proceedings under this Law or a law of a co-regulatory jurisdiction against a health practitioner registered by the Board as evidence of what constitutes appropriate professional conduct or practice for the health profession.

#### Part 7 Division 6 Application for Registration

##### 83 Conditions of registration

- 1) If a *National Board* decides to register a person in the health profession for which the Board is established, the registration is subject to any condition the Board considers necessary or desirable in the circumstances.

Note: A failure by a registered health practitioner to comply with a condition of the practitioner's registration does not constitute an offence but may constitute behaviour for which health, conduct or performance action may be taken.

- 2) If the *National Board* decides to register the person subject to a condition referred to in subsection (1), the Board must decide a review period for the condition

#### Part 8 Division 10 Action by a National Board

##### 178 National Board may take action

- 1) This section applies if—
  - (a) a *National Board* reasonably believes, because of a notification or for any other reason—
    - (i) the way a registered health practitioner registered by the Board practises the health profession, or the practitioner's professional conduct, is or may be unsatisfactory; or
    - (ii) a registered health practitioner or student registered by the Board has or may have an impairment; or
    - (iii) a student has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months imprisonment or more; or
    - (iv) a student has or may have contravened a condition of the student's registration or an undertaking given by the student to a *National Board*; and
  - (b) the matter is not required to be referred to a responsible tribunal under section 193; and
  - (c) the Board decides it is not necessary or appropriate to refer the matter to a panel.
- 2) The *National Board* may decide to take one or more of the following actions (**relevant action**) in relation to the registered health practitioner or student—

- (a) caution the registered health practitioner or student;
- (b) accept an undertaking from the registered health practitioner or student;
- (c) impose conditions on the practitioner's or student's registration, including, for example, in relation to a practitioner—
  - (i) a condition requiring the practitioner to complete specified further education or training within a specified period; or
  - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
  - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
  - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
  - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
  - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;
- (d) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.

## Part 8 Division 11 Panels

### 191 Decision of panel

- 1) After hearing a matter about a registered health practitioner, a panel may decide—
  - (a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or
  - (b) one or more of the following—
    - (i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;
    - (ii) the practitioner has behaved in a way that constitutes unprofessional conduct;
    - (iii) the practitioner has an impairment;
    - (iv) the matter must be referred to a responsible tribunal under section 193;
    - (v) the matter must be referred to another entity, including, for example, a health complaints entity, for investigation or other action.
- 2) After hearing a matter about a student, a health panel may decide—
  - (a) the student has an impairment; or
  - (b) the matter must be referred to another entity, including, for example, a health complaints entity, for investigation or other action; or
  - (c) the student has no case to answer and no further action is to be taken in relation to the matter.
- 3) If a panel decides a registered health practitioner or student has an impairment, or that a practitioner has behaved in a way that constitutes unsatisfactory professional performance or unprofessional conduct, the panel may decide to do one or more of the following—
  - (a) impose conditions on the practitioner's or student's registration, including, for example, in relation to a practitioner—
    - (i) a condition requiring the practitioner to complete specified further education or training within a specified period; or
    - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
    - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
    - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
    - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
    - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;
  - (b) for a health panel, suspend the practitioner's or student's registration;
  - (c) for a performance and professional standards panel, caution or reprimand the practitioner.
- 4) If a panel decides to impose a condition on a registered health practitioner's or student's registration, the panel must also decide a review period for the condition.
- 5) A decision by a panel that a registered health practitioner has no case to answer in relation to a matter does not prevent a National Board or adjudication body taking the matter into consideration at a later time as part of a pattern of conduct or practice by the health practitioner.

## Part 8 Division 12 Referring matter to responsible tribunals

### 196 Decision by responsible tribunal about registered health practitioner

- 1) After hearing a matter about a registered health practitioner, a responsible tribunal may decide—
  - (a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or
  - (b) one or more of the following—
    - (i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;
    - (ii) the practitioner has behaved in a way that constitutes unprofessional conduct;
    - (iii) the practitioner has behaved in a way that constitutes professional misconduct;
    - (iv) the practitioner has an impairment;
    - (v) the practitioner's registration was improperly obtained because the practitioner or someone else gave the National Board that registered the practitioner information or a document that was false or misleading in a material particular; or
- 2) If a responsible tribunal makes a decision referred to in subsection (1)(b), the tribunal may decide to do one or more of the following—
  - (a) caution or reprimand the practitioner;
  - (b) impose a condition on the practitioner's registration, including, for example—
    - (i) a condition requiring the practitioner to complete specified further education or training, or to undergo counselling, within a specified period; or
    - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
    - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
    - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
    - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
    - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons,
  - (c) require the practitioner to pay a fine of not more than \$30,000 to the National Board that registers the practitioner;
  - (d) suspend the practitioner's registration for a specified period;
  - (e) cancel the practitioner's registration.
- 3) If the responsible tribunal decides to impose a condition on the practitioner's registration, the tribunal must also decide a review period for the condition.
- 4) If the tribunal decides to cancel a person's registration under this Law or the person does not hold registration under this Law, the tribunal may also decide to—
  - (a) disqualify the person from applying for registration as a registered health practitioner for a specified period; or
  - (b) prohibit the person from using a specified title or providing a specified health service.

## Appendix 2

### Standard further education and training by plan

#### PART A General Information

##### Primary Board approved person (Board approved person 1):

Last name: \_\_\_\_\_  
First name: \_\_\_\_\_  
Practice address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Work: \_\_\_\_\_ Mobile: \_\_\_\_\_  
Fax: \_\_\_\_\_ Signature: \_\_\_\_\_  
Email: \_\_\_\_\_

##### Secondary Board approved person (Board approved person 2): (if applicable)

Last name: \_\_\_\_\_  
First name: \_\_\_\_\_  
Practice address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Work: \_\_\_\_\_ Mobile: \_\_\_\_\_  
Fax: \_\_\_\_\_ Signature: \_\_\_\_\_  
Email: \_\_\_\_\_

##### Practitioner:

Last name: \_\_\_\_\_  
First name: \_\_\_\_\_  
Postal address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Work: \_\_\_\_\_ Mobile: \_\_\_\_\_  
Fax: \_\_\_\_\_ Signature: \_\_\_\_\_  
Email: \_\_\_\_\_

## **PART B: Further education and training learning plan.**

### **Requirements**

**Origin:** Board decision / Tribunal decision / Panel decision / Other

### **Details/Background:**

#### **Purpose:**

The purpose of this program is to provide the participant with a supported opportunity to undertake further education in areas previously not undertaken and/or to refresh knowledge and skills that are no longer current.

#### **Requirements:**

The requirements of the program as follows:

- To complete the approved program according to the learning plan schedule outlined
- To complete the objectives specified below
- ...

#### **Specific Objectives:**

The specific objectives to be achieved as part of the supervision are:

- To increase the practitioner's knowledge, awareness and understanding of....
- ...

#### **Time period:**

From: \_\_\_\_\_ To: \_\_\_\_\_

### **Standards**

The standards that are to apply in the construction/review of any material are as follows:

- Codes and Guidelines published by the Chiropractic Board of Australia (<http://www.chiropracticboard.gov.au/Codes-Guidelines.aspx>)
- Principles of practice and competency based standards produced by CCEA Inc (<http://www.ccea.com.au>)
- Best practices and any relevant scholarly literature reviewed in accord with the standards required by the National Board

### Modes of Delivery

Given the nature of these programs, aside from occasional face to face meetings, the majority of the counselling in most cases can be done by teleconference, and documents transmitted by mail or electronic means. This model of delivery causes the least impost on all parties and provides greatest flexibility. This process is consistent with the principles of providing practitioners with a supported method to undertake professional improvement.

The agreed modes of delivery in this plan are:

- ....

### Range of activities

The range of activities that a Board approved person may require the practitioner to undertake to facilitate the required outcomes of the approved plan can include (but are not limited to):

• Fault Finding	• Group Discussions
• Role Plays	• Preparation of reports, assignments or other written material
• Verbal Questioning	• Review of documents and readings
• Verbal Presentations	• Self Assessment/Critical Reflection
• Written Presentations	• Portfolio Compilation

### Reporting schedule:

1<sup>st</sup> Report -        days from commencement = \_\_\_\_\_  
2<sup>nd</sup> Report -        days from commencement = \_\_\_\_\_  
3<sup>rd</sup> Report -        days from commencement = \_\_\_\_\_  
4<sup>th</sup> Report -        days from commencement = \_\_\_\_\_

Additional reports:

### Financial arrangements:

The estimated total cost associated with this program is: \$ \_\_\_\_\_

This comprises of the following amounts:

- \$ \_\_\_\_\_ for
- \$ \_\_\_\_\_ for
- \$ \_\_\_\_\_ for
- \$ \_\_\_\_\_ for

The practitioner is responsible for costs payable to the Board approved person to the amount of:  
\$\_\_\_\_\_

This may be progressively payable upon the receipt of an appropriate tax invoice from the Board approved person according to the following schedule:

- Payment #1 of \$\_\_\_\_\_
- Payment #2 of \$\_\_\_\_\_
- Payment #3 of \$\_\_\_\_\_

### Learning Plan:

#### SESSION 1: ORIENTATION & OVERVIEW

Proposed Topics:

- Overview of approved program and proposed structure
- Overview of complaint/issue that gave rise to the requirement for further education and training (by mentoring and/or counselling)
- Review the required objectives and outcomes of the approved plan.
- Determine with the practitioner any further areas that are to be addressed in the program

Proposed Outcome(s):

- Enable the practitioner and mentor to achieve a clear understanding of the issues involved and to mutually determine a program that best caters to the practitioner's learning needs

Further Practitioner Activities:

#### SESSION 2: [insert title]

Proposed Topics:

- ...
- ...
- ...

Proposed Outcome(s):

- ...
- ...

Further Practitioner Activities:

- ...
- ...

#### SESSION 3: ...

...

#### SESSION 4...

....

**Agreed by:**

Board approved person:

\_\_\_\_\_ (NAME) \_\_\_\_\_ (SIGNATURE) \_\_\_\_\_ (DATE)

Practitioner:

\_\_\_\_\_ (NAME) \_\_\_\_\_ (SIGNATURE) \_\_\_\_\_ (DATE)

Date approved by the Board: \_\_\_\_\_

Consultation

## Appendix 3:

### Reporting Template

#### Details:

Board approved person: \_\_\_\_\_

Practitioner: \_\_\_\_\_

#### Report Submitted by:

Date of Report:

Report number:

#### Progress towards objectives:

Session #.....

Session # ....

Overall impression:

Additional comments/recommendations:

Next Report due: \_\_\_\_\_

#### Authorisation:

Name : \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date report accepted by the National Board: \_\_\_\_\_

## Attachment 2:

# Board's Statement of assessment against AHPRA's procedures for development of registration standards & COAG principles for best practice regulation

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the Development of Registration Standards* which are available at: [www.ahpra.gov.au](http://www.ahpra.gov.au)

These procedures have been developed by AHPRA in accordance with section 25 of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law) which requires AHPRA to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme operates in accordance with good regulatory practice.

Below is the Chiropractic Board of Australia's assessment of its proposed *Guidelines for the further education and training of chiropractors when required under the National Law* against the three elements outlined in the AHPRA procedures.

### 1. The proposal takes into account the National Scheme's objectives and guiding principles set out in section 3 of the National Law

#### National Board assessment

The National Board considers that these guidelines support the principles of section 3 of the National Law because they support the sustenance of a competent and ethical chiropractic workforce.

The provisions that may give rise to the requirements for further education and training are set out in sections 83, 179, 191, and 196 of the National Law. Predominantly, the requirement for further education and training arises from the health, conduct or performance provisions set out in Part 8 of the National Law. These guidelines only provide structure and set out the expectations of the National Board as they relate to the further education and training of chiropractors required under the National Law to ensure consistency, efficiency, effectiveness and transparency.

### 2. The consultation requirements of the National Law are met

#### Board assessment

The National Law requires wide-ranging consultation on proposed registration standards, codes and guidelines (section 40). The National Law also requires the National Board to consult other Boards on matters of shared interest.

The National Board is ensuring that there is public exposure of its proposals and the opportunity for public comment by undertaking a 6 week public consultation process subsequent to this 4 week preliminary consultation process. The public consultation phase of this process will include the publication of the consultation impact paper (and attachments) on its website.

The National Board will also draw this paper to the attention of the 13 other National Boards, and key stakeholders in both preliminary and public phases of the consultation process.

The National Board will take into account the feedback it receives say prior to approval by the National Board.

### 3. The proposal takes into account the COAG Principles for Best Practice Regulation

#### Board assessment

In developing the draft proposal for consultation, the National Board has taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

As an overall statement, the National Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community.

The National Board makes the following assessment specific to each of the COAG Principles

expressed in the AHPRA procedures.

**A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public**

**Board assessment**

The National Board considers that the draft guideline supports an approach that will engage practitioners who are deemed under the National Law to require further education and training in a process that provides for valid and reliable outcomes, and has an appropriate reporting structure in order to ensure that outcomes are achieved by the practitioner.

Given that the requirement for further education and training is set out in the National Law, no power to enforce or prescribe the process such as registration standard was required nor desired by the National Board. A clear guideline supporting a consistent process was thought to provide the optimum outcome in terms of consistency and transparency whilst still providing sufficient enforcement capability should non-compliance be of concern in a particular matter.

**B. Whether the proposal results in an unnecessary restriction of competition among health practitioners**

**Board assessment**

The National Board considers that the draft guidelines do not impose an unnecessary restriction on competition among practitioners. This draft guideline seeks to provide a framework to support an efficient and effective delivery of remedial education to practitioners who have had this requirements imposed on them the provisions set out in Parts 7 and 8 of the National Law.

**C. Whether the proposal results in an unnecessary restriction of consumer choice**

**Board assessment**

The National Board considers that the draft guideline has no negative impact on consumer choice. Indeed in the longer term, it may have a positive effect by being part of a process that supports retraining and retaining practitioners to be valuable members of the health care community who otherwise may be lost to the health care workforce.

**D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved**

**Board assessment**

At this stage, the National Board considers that individual practitioners financing their own customised training programs is the most efficient and effective way to conduct this activity. If the National Board were to fund the process, the National Board would need to consider whether the costs of such programs would have to be borne by the collective of the profession via an above CPI increase in registration fees as this is a self-funding scheme. Historically this cost was not borne by the previous State and Territory Boards nor the broader profession but by the individual. There would be no change to these arrangements under this guideline.

**E. Whether the requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants**

**Board assessment**

The National Board considers that this guideline has been written in plain English that is understandable to members of the profession. By way of example, the use of dot points, numbered points and headed sections has been used to obtain clarity consistent with the principals of plain English writing.

**F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time**

**Board assessment**

If approved, the National Board will review the guideline every five years from its approval date and commencement, including assessment against the objectives and guiding principles in the proposed National Law and the COAG principles for best practice regulation. However, the National Board may choose to review an approved guideline at an earlier point in time, if it is necessary to ensure its continued relevance and workability.

Consultation