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Note from the Chair

Practitioners are again reminded that your advertising must comply with section 133 of the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

Your advertising must not, among other things, be misleading or deceptive, create an unreasonable expectation of beneficial treatment or encourage indiscriminate or unnecessary use of chiropractic care.

The Chiropractic Board of Australia (the National Board) has published a significant amount of information to help you understand your obligations in relation to advertising, including most recently [Frequently asked questions: Advertising for chiropractors](#).

The take-home message for members of the profession is that, should you choose to advertise, it is part of your professional practice. It is both professionally unacceptable and a statutory offence under the National Law to make claims in advertising that cannot be substantiated.

The Board's message to those of you who are having difficulty understanding whether your advertising is compliant with the National Law and your professional obligations is simple:

- The burden is on you to substantiate any claim you make that attributes benefits to your treatments.
- If you do not understand your obligations, then please seek legal advice or the advice of your professional association.

- If you do not understand whether the claims you have made can be substantiated based on good evidence, then remove them from your advertising. These are serious matters that can have serious consequences for your professional standing: **IF IN DOUBT** about a claim, **LEAVE IT OUT** of your advertising.

There is more information about your advertising obligations in this newsletter.

Dr Wayne Minter AM

Chiropractor
Chair, Chiropractic Board of Australia

Advertising regulated health services

Since the last newsletter, the Board considered and discussed a review of a number of complaints made about advertising by some chiropractors. The Board noted several areas of concern, such as treatment claims that may be misleading to the public resulting in unnecessary or inappropriate treatment, particularly to pregnant patients, children and infants. Anti-vaccination statements have also been noted and are of particular concern.

Although the Board has provided repeated guidance on advertising issues to chiropractors, including a newsletter in September 2015, some chiropractors are still not complying.

Given the evidence to hand, in March the Board decided to provide additional clarity to all chiropractors in a [statement](#) about some of these specific advertising issues and ensured that each practitioner received a copy.

It is an offence under the National Law to advertise a regulated health service, or a business that provides a regulated health service, in a way that is false, misleading or deceptive or is likely to be misleading or deceptive. Misleading someone may include leading them to a wrong conclusion,



creating a false impression, leaving out (or hiding) important information, and/or making false or inaccurate claims.

When assessing whether advertising could be false, misleading or deceptive, it is the overall impression of the advertising that is evaluated. As such, it is possible for statements that are technically true to be misleading or deceptive in certain contexts.

Advertising claims that are contrary to high level evidence are unacceptable.

The National Law also prohibits advertising that creates an unreasonable expectation of beneficial treatment. The claims of beneficial treatment can range from unsubstantiated scientific claims through to miracle cures.

The Board asks chiropractors to make sure that any information they publish about services is factual and verifiable.

Scientific information in advertising

Practitioners must take care to not mislead or create false impressions when using scientific information in advertising. Practitioners who choose to include scientific information in advertising must ensure that the information is presented in a manner that is accurate, balanced and not misleading and use wording that is understood readily by the target audience.

The advertising must clearly identify the relevant researchers, sponsors and the academic publication in which the source scientific information or results appear, and be from a reputable (e.g. peer reviewed) and verifiable source.

Cases

A number of registered health practitioners have been the subject of tribunal or court findings about breaches of advertising requirements.

Relevant cases include:

In *Medical Board of Australia v Lai* [2011] VCAT 1754, the Victorian Civil and Administrative Tribunal found that Dr Lai had engaged in unprofessional conduct in his advertising of chelation therapy, by creating an unreasonable expectation of beneficial treatment by making unqualified claims about the benefits of chelation therapy and by failing to state in the advertisement that the benefits of chelation therapy claimed, have not been established by peer-reviewed scientific research.

In *Chiropractic Board of Australia v Hooper* [2013] VCAT 878, the Victorian Civil and Administrative Tribunal found that Dr Hooper's claims on his website about hyperbaric oxygen treatment were misleading and deceptive because he did not present a balanced view about the effectiveness of hyperbaric oxygen treatment for specified conditions, including that such treatment was not conventionally used in Australia and in western countries with a comparable health service culture and was not supported by medical and scientific evidence.

Care of children

The care of children by chiropractors has attracted some interest in the media recently. In October 2015 the Board [released a position statement on paediatric care](#). In that statement the Board made clear that chiropractors have a responsibility to practise in an evidence-based and patient-centred manner, and also to recognise and work within the limits of their competence and scope of practice.

The Board draws practitioners' attention to section 3.7 of the [Code of conduct](#) (the code), which sets out the Board's expectations about caring for children and young people.

Practitioners must ensure that their clinical practice is consistent with current evidence and best practice approaches. Practitioners are also reminded to be conscious of additional needs and requirements in caring for children, including ensuring that all care and treatment is suitable to the age, presentation and development of the patient.

At all times, practitioners must ensure that the best interests and wellbeing of the patient are placed first.

Audits

At renewal each year you have to declare your compliance with mandatory registration standards. The Australian Health Practitioner Regulation Agency (AHPRA) and the Board have a nationally consistent approach to auditing chiropractors to verify those declarations. A random sample of practitioners has been selected and will receive an audit notice in the mail from AHPRA. It includes a checklist that outlines what supporting documentation is required to demonstrate that practitioners meet the standard(s) being audited.

Any chiropractor who is found to have made a false declaration can expect the Board to take action against their registration.

More information is available on the [audit page](#) of the Board's website.

Planning your CPD

It is important that you start planning your continuing professional development (CPD) now.

Under the [CPD registration standard](#), all practising chiropractors must complete at least 25 hours of CPD per annual registration period. The CPD activities must have formal learning elements and may have informal learning elements.

A revised standard and supporting guidelines have been approved by health ministers and took effect on 1 December 2015. It is important that all practitioners read and understand the requirements in this standard. An important change is the ability for individual practitioners to do their own assessment of a formal learning activity, as well as the recognition of assessments done by recognised bodies.

At least 50 per cent of the required 25 hours (i.e. a minimum 12.5 hours) must be formal learning activities. The balance may be formal or informal learning activities. All practitioners must hold a current First Aid Certificate, equivalent to the HLTAID 003 Provide First Aid standard. First aid certificates need to be renewed every three years.

All chiropractors must maintain a personal portfolio to record their CPD activities. A portfolio for the purposes of CPD should include:

- a log of the CPD activities done; the Board has a downloadable [logbook](#) to assist you with this, and
- a reflection on the activities done, included as part of the logbook.

In addition, for formal learning activities, a portfolio should include:

- evidence of attendance/participation in the activity, and
- other documentation supporting the formal learning content and amount, for example:
 - o notes or handouts
 - o certificates of attendance
 - o proof of enrolment
 - o articles published
 - o presentations made, or
 - o individual formal learning assessments completed.

If you are required to provide the Board with evidence of your CPD, for example when audited, your personal portfolio needs to demonstrate how you have complied with the requirements of the Board.

If you need to lodge a request for exemption or variation of the CPD requirements, the Board prefers that you lodge this as soon as the need arises, rather than waiting until after you have declared non-compliance at renewal.

Kickbacks and secret commissions

The Board has received allegations that some manufacturers and suppliers are offering 'kickbacks' or 'secret commissions' to practitioners who refer patients for their product or service.

We remind you that patients rely on the independence and trustworthiness of the practitioners who provide them with advice and care. As set out in the [Code of conduct](#) for chiropractors, a conflict of interest in practice arises when chiropractors, entrusted with acting in the interests of a patient, also have financial, professional or personal interests or relationships with third parties which may affect their care of their patient(s).

When these interests compromise, or might reasonably be perceived by an independent observer to compromise, the chiropractor's primary duty to the patient, chiropractors must recognise and resolve this conflict in the best interests of the patient.

The Board's advice to practitioners, as detailed in the code, is that you should not accept any inducement, gift or hospitality (for other than minimal value) from companies that are selling products or services to patients that have been referred by you to that company.

Should a financial or professional interest exist, you must not allow that interest to affect the care of your patients and you must declare any interest in any product or service you might sell, endorse or refer to, to your patients and not make an unjustifiable profit from that sale or endorsement.

National Scheme news

National drug screening protocol now in place

There are health practitioners with a history of substance misuse who have restrictions placed on their registration. These restrictions are generally designed to keep the public safe while the practitioner remains in practice.

When restrictions are placed on a health practitioner's registration, AHPRA monitors the practitioner to make sure they are complying with the restrictions. This process is referred to as 'monitoring and compliance'.

From November 2015, all health practitioners who have restrictions placed on their registration by their National Board as a result of past substance misuse will have routine quarterly hair testing, in addition to random urine testing. Routine hair testing provides additional information about the use of a wide range of drugs, over a longer time period. It therefore provides greater assurance to the Board that the practitioner is not impaired as a result of ongoing substance misuse.

The introduction of routine hair testing is based on expert advice about modern drug screening methods. Using contemporary scientific evidence and the advice of an expert panel, National Boards and AHPRA will manage the risk associated with practitioners with a history of substance misuse.

For more information, see the [news item](#) on AHPRA's website.

New video outlines objectives and role of the National Scheme

AHPRA has recently launched a new video (with an accompanying infographic) explaining the Australia-wide scheme that is in place to protect members of the public.

Aimed mainly at the community, the video outlines how AHPRA, working in partnership with the 14 National Boards, helps regulate Australia's 640,000-plus registered health practitioners through a national scheme.

[The video](#) explains how the National Registration and Accreditation Scheme (the National Scheme) works and how patients are protected.

Both resources are available on the [What we do](#) page of the AHPRA website. The video can also be watched on AHPRA's [YouTube channel](#).

Employer obligations: new awareness campaign

AHPRA has published a [news item](#) that outlines employers' obligations, and has ads running on LinkedIn and Facebook. This is the first step in the campaign, with many more activities to follow, including direct mail, paid print advertising, and in-language advertising (for the public campaign).

The campaign will be rolled out in stages and has three target audiences and objectives:

1. Employers – check the [register](#) before employing someone, keep up to date with changes to registrations, make mandatory reports when required.
2. Practitioners – know your obligations as a registered health practitioner.
3. Public – check to see if your practitioner is registered.

More information is available in the AHPRA [news item](#).

State and territory summaries and profession summaries now available – annual report 2014/15

State and territory summaries of the 2014/15 annual report are now available on the [AHPRA website](#). The summaries provide a view of national data about our work to keep the public safe through a state or territory lens. We provide national comparisons to show how the state or territory compares with the national average and where possible, we provide two years of data, to identify and track trends over time.

More comprehensive data are in the [2014/15 annual report](#) of AHPRA and the National Boards which was published in November 2015. The annual report also includes more detailed profession-specific information.

The 14 National Boards have also published individual profession profiles. To read the [chiropractic profession profile](#), go to the Board's website.

Dangers of button battery ingestion

From time to time the National Boards are asked to publicise important public health messages for health practitioners.

The Queensland Coroner's recent report into the death of a four-year-old girl, who died after swallowing a two-centimetre button battery, has highlighted the need for health practitioners to be aware of the dangers these products present to patients if ingested, and to be better equipped to handle suspected cases.

When swallowed, lithium button batteries (also known as 'disc batteries') can become lodged in the oesophagus and the residual charge can cause electrolysis. This burns through tissue causing severe, irreversible damage.

Recognising battery ingestion can be difficult if the ingestion is not witnessed, as the child may present with non-specific symptoms such as poor feeding, irritability, fever, vomiting, drooling or cough. The ingestion of disc batteries requires urgent intervention.

Further information is available from the Australian Competition Consumer Commission, [ACCC](#) or advice can be obtained by ringing the Poisons Information Centre in Australia on 13 11 26.

Keep in touch with the Board

- Visit our [website](#) for news about the profession and for registration standards, codes, guidelines, policies and fact sheets.
- Lodge an [online enquiry form](#).
- For registration enquiries call 1300 419 495 (from within Australia).
- Address mail correspondence to: Dr Wayne Minter, Chair, Chiropractic Board of Australia, GPO Box 9958, Melbourne VIC 3001.

