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Message from the Chair

Minimising complaints to the Board

The role of the Chiropractic Board of Australia (the Board) is to protect the public and set standards to guide the profession. There are a number of powers given to the Board under the Health Practitioner Regulation National Law¹, including deciding the requirements for registration of chiropractors, and approving accredited programs of study as providing qualifications for registration. These measures help to ensure that registrants have the necessary knowledge and skills to practise safely and competently. Another way the Board protects the public is to receive and deal with complaints and notifications by the public about misleading advertising and the conduct and performance of chiropractors.

Currently the Board has 604 open advertising complaints and 88 open notifications about conduct or performance issues against chiropractors across Australia. Based on the assessment of these notifications, immediate action to suspend or impose conditions on registration for the immediate protection of the public was considered in 12 cases. These are usually the most serious cases, although a number of other actions were taken by the Board over the year, including issuing cautions, reprimands, and imposing conditions on a practitioner’s registration.

Chiropractors are reminded that the best way to ensure they remain compliant with their obligations and responsibilities under the National Law is to regularly access and implement

the practice standards and advertising protocols consistent with the standards, codes and guidelines published by the Board.

I am delighted to inform you that the Board will be hosting a series of forums over the coming months to address many issues relevant to registered chiropractors including the following topics:

- How do I advertise and remain compliant with the National Law?
- How to self-assess formal learning activities (FLA) hours.
- Why continuing professional development (CPD) is important in enhancing public safety.

Forum dates are included in the newsletter and invitations will be emailed out in the coming weeks. On behalf of all Board members, I invite you to participate and your attendance will be valued.

Dr Wayne Minter AM

Chiropractor
Chair, Chiropractic Board of Australia

AHPRA and Board hold ‘commercially predatory, exploitative’ chiropractor to account

The Board has successfully brought disciplinary proceedings against a suspended South Australian chiropractor, Mr Robert Marin, with the South Australian Health Practitioners Tribunal (the tribunal) finding his behaviour was ‘commercially predatory’ and ‘exploitative’.

The Board and the Australian Health Practitioner Regulation Agency (AHPRA) investigated seven notifications about Mr Marin’s clinical practice concerning five chiropractic patients and two massage clients, and a further seven notifications about his provision of a weight loss program. The investigation also examined Mr Marin’s use of CCTV in his clinic and routine screening x-rays for 14 children under the age of 12.

¹ The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

In its complaint to the tribunal, the Board alleged that Mr Marin:

- failed to carry out adequate clinical assessments
- indiscriminately used plain film x-ray, including for the children, and without clinical justification
- used x-rays and heart rate variability tests for weight loss patients as a platform to exaggerate the severity of a patient's condition and promote the need for long-term treatment
- exerted pressure to enter into treatment or the weight loss program with a substantial prepayment arrangement for his financial benefit
- provided a service, and products in the case of weight loss patients, which lacked professionalism and individual care and attention, and
- permitted the CCTV camera in the x-ray room to operate when patients were undressing for x-rays, with the footage then being stored.

The tribunal found Mr Marin's conduct was substantially below the standard expected of a registered chiropractor and that he is not a fit and proper person to hold registration. It noted that he had been previously disciplined in 2008 and yet repeated similar conduct and breached undertakings he had given to the Board. The tribunal upheld a decision by the Board to take immediate action to suspend Mr Marin's registration in June 2015.

Self-reflection in the health professions

Self-regulation of learning for chiropractors plays an important role in professional behaviour.

In particular, it is important for CPD and when practitioners prepare strategies for effective remediation and return to practice.

The Board hosted stakeholder forums on Saturday 25 March 2017 and Sunday 26 March 2017 to advance the conversation on self-regulation of learning for practitioners, particularly in the context of CPD and of remediation and/or return to practice.

The forums were well attended by a broad spectrum of stakeholders and guests, in person or by webinar.

The Board received thought-provoking and informative presentations from keynote speaker Professor Kevin Eva on self-reflection in the health professions and on facilitating receptivity in the reluctant adult learner, as well as supporting presentations from Board Chair Dr Wayne Minter AM (*CPD in a regulatory context*) and Dr Mark Bartolo (*Reflections on the mentoring of chiropractors in clinical practice*).

There were some valuable lessons from the day, and Professor Eva's presentations are now available as [vodcasts](#) on the Board's website.

Board forums for chiropractors

The Board is committed to ensuring that information about the expectations of the Board are clearly communicated to practitioners, and that opportunities for genuine engagement are provided in relation to important regulatory issues. We will be hosting forums in most state and territory capitals over the next few months. We will also be publishing one of the forums online so that those who are unable to attend a forum can access the content.

Practitioners will receive invitations by email in due course. The current schedule for the forums is:

- Vic. Forum: Friday 18 August (6-8pm AEST)
- SA Forum: Tuesday 22 August (6-8pm ACST)
- NSW Forum: Thursday 21 September (6-8pm AEST)
- Qld Forum: Tuesday 26 September (6-8pm AEST)
- WA Forum: Tuesday 3 October (6-8pm AWST)
- ACT Forum: Thursday 19 October (5-6.30pm AEST)

Notifications analysis leads to revised position statements on providing health information and caring for paediatric patients

Overall figures

AHPRA and the Board have worked together to analyse notifications and complaints data in relation to matters relating to paediatric patients.

During the period 1 July 2010 to 30 June 2015, AHPRA received a total of 679 enquiries, notifications and alleged National Law offences (predominantly advertising matters) relating to chiropractors. Of these, 333 were formal notifications about all age groups, of which 93 resulted in a regulatory action by the Board.

Paediatric cases

A total of 126 cases relating to, or involving people under the age of 18 years were identified – 116 of these were offences related to advertising of paediatric services and/or the promotion of anti-vaccination materials.

The remaining 10 cases representing nine separate matters, related to specific patients under the age of 18 years. Of these nine cases, three related to treating children in hospitals without permission, three related to misdiagnosis, unnecessary and/or inappropriate treatment, two related directly to the effects of the treatment provided, and one related to the misuse of patient information. No deaths were noted. All nine cases resulted in the Board taking regulatory action.

To support practitioners and better inform the public about what is expected by chiropractors when treating paediatric patients, the Board has published revised position statements on [the care of paediatric patients and the provision of health information](#). **The revised versions expand slightly on the previous versions to provide clearer guidance and information for practitioners.**

The Board and AHPRA remain committed to ensuring the public receive evidence-based and patient-centred care from chiropractors. In anyone has a concern about the health, conduct or professional practice of an individual chiropractor they are urged to make a notification via the [AHPRA website](#).

Advertising compliance and enforcement strategy

The Board recently considered and endorsed a cross-profession national strategy to help keep health service consumers safe from misleading advertising. Building on the significant work already done by the Board in this area, this strategy provides an approach to managing advertising complaints and taking appropriate action to achieve compliance. [The Advertising compliance and enforcement strategy for the National Scheme](#) sends a loud and clear message to registered health practitioners that when advertising your health services you must comply with your professional and legal requirements to not mislead consumers in any way, or consequences may follow.

The strategy and other advertising resource information is available on the [Advertising resources](#) section of the AHPRA website. [Guidance specifically designed for chiropractors](#) is now available.

Update on the review of the Code of conduct

The *Code of conduct for chiropractors* is based on the common code of conduct used by 10 other National Boards (Aboriginal and Torres Strait Islander Health Practice, Chinese Medicine, Dental, Medical Radiation Practice, Occupational Therapy, Optometry, Osteopathy, Pharmacy, Physiotherapy and Podiatry) with some minor profession-specific changes. The Board is reviewing the *Code of conduct for chiropractors* (the Code) as part of the joint project to review the common code of conduct.

The Code is a regulatory document that provides an overarching guide to support and inform good practice and to help practitioners, Boards, employers, healthcare users and other stakeholders to understand what good practice involves. It seeks to help and support practitioners to deliver safe and effective health services within an ethical framework.

As the Code was last published in March 2014, we have started a scheduled review that will draw on best available research and data and involve additional stakeholder consultation and engagement. We are working with other National Boards that use the common code on the review.

The review is still at an early research phase. However, we are already considering how we can maximise opportunities for input when the consultation stage of the review starts. In addition to public consultation we intend to use our website and other social media to inform chiropractors about how they can contribute to the review. We will also highlight opportunities to be involved in upcoming communiqués and newsletters.

Chiropractor disqualified from applying for registration after sexual contact and inappropriate conduct with patients

The State Administrative Tribunal of WA has disqualified a former chiropractor from applying for registration for three years with the National Board after he admitted to professional misconduct, including sexual contact and inappropriate conduct with female patients.

Dr John Horner was disqualified from applying for registration as a chiropractor for three years from the date of the order (3 March 2017), has been reprimanded and is prohibited from providing any health service that involves consultation with or touching any female patient until such time as he is returned to the register of health practitioners. He was also ordered to pay the Board's legal costs of \$10,000.

Dr Horner admitted to five separate instances of professional misconduct: the most serious was a sexual relationship with a female patient that began in 2000 and continued till 2012, including sexual acts performed in his consulting rooms as well as at the patient's home. Three other, separate instances of misconduct occurred with female patients between May 2006 and December 2013, in which he failed to administer treatment in a manner that preserved their modesty and dignity.

Dr Horner surrendered his registration as a chiropractor in February 2015. If he had not surrendered his registration, the tribunal would have cancelled it. The tribunal's orders are published on the [State Administrative Tribunal of Western Australia website](#).

More detail is available in the [media release](#) on the Board's website.

New accreditation standards approved

In April, the Board considered the proposed *Accreditation standards for chiropractic programs* submitted by the Council on Chiropractic Education Australasia (CCEA) along with supporting and related documents including *Competency standards for graduating chiropractors* and *Accreditation guidelines for chiropractic education programs*. These have been approved and will shortly come into effect once published on the Board's website.

National Scheme news

COAG Health Council meeting communiqué

The federal and state and territory health ministers met in Melbourne on 24 March 2017 at the [COAG Health Council](#) to discuss a range of national health issues. The meeting was chaired by the Victorian Minister for Health, the Hon. Jill Hennessy. AHPRA CEO Martin Fletcher attended the Australian Health Workforce Ministerial Council (the Ministerial Council) meeting which brings together all health ministers throughout Australia to provide oversight for the work of the National Scheme. AHPRA and National Boards provide a regular update to the Ministerial Council on our work.

This meeting had a particular focus on the progress of amendments to the National Law which, among other things, will pave the way for the registration of paramedics from 2018, and a call for expressions of interest and nominations for first appointments to the National Board before this. Ministers also discussed further amendments to the National Law to increase the penalties for people holding out as registered practitioners (pretending to be registered when they are not).

Scheduled Medicines Expert Committee appointed

Late last year the Ministerial Council endorsed the AHMAC Guidance for National Boards: *Applications to the Ministerial Council for approval of endorsements in relation to scheduled medicines under section 14 of the National Law* (the Guidance).

The Guidance is published on the AHPRA website under [Ministerial directives and communiques](#). It provides information for National Boards about the process for, and content of, an application to the Ministerial Council for approval of endorsement for scheduled medicines for a health profession under section 14 of the National Law.

Consistent with the Guidance, AHPRA has established a Scheduled Medicines Expert Committee (Expert Committee) whose role is to advise National Boards on the use of scheduled medicines generally, and on matters relevant to a National Board's proposal for a new scheduled medicines endorsement or an amendment to an existing scheduled medicines endorsement.

Following a call for applications, AHPRA is pleased to announce the following appointments to the Expert Committee:

- Professor Anne Tonkin, Chair
- Ms Vanessa Brotto, core member
- Dr Susan Hunt, core member
- Professor Lisa Nissen, core member
- Ms Sarah Spagnardi, core member

The Expert Committee is expected to hold its inaugural meeting later this year. Information about the Expert Committee, including the terms of reference, will be published on the AHPRA website shortly.

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.

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