

AHPRA: Consultation on common codes and guidelines

This submission

The Australian Osteopathic Association (AOA) appreciates this opportunity to comment on the revised consultation paper, including revisions to:

- the Guidelines for advertising
- a Social media policy
- the Guidelines for mandatory notifications.

We further note the unchanged aspects of the consultation paper, which has our overall support.

We have no objection to this submission being published.

Background

The AOA is pleased to note various revisions to the consultation paper.

The AOA advocates that the Osteopathy Board of Australia (OBA) as part of AHPRA, more actively acknowledges its statutory role as regulator. The guidelines and policy under discussion are a substantial improvement in this respect, and the AOA commends the increased clarity.

Nevertheless, it remains advantageous to the AOA's members (as well as to the standards of professionalism and healthcare nationwide) if practitioners' certainty about their conduct could be maximised.

This entails the same commendable degree of responsiveness to representations made by the AOA, but an increased willingness by the Board to provide clarifying information or definitions about the content of such representations than has hitherto been experienced.

Comments

In general, it is broadly acknowledged that if guidelines are to be effective and enforceable they must be clearly understood, directly applicable to those being regulated and not be open to varied individual interpretation and/or application. The AOA has some concerns regarding the lack of specificity of some components of these common codes and guidelines.

The AOA firmly agrees that the common codes and guidelines should demonstrate consistency; however consistency can be maintained without the common codes and guidelines being identical. As such, any section of a common codes and guidelines that is going to be published under the OBA branding, should remove all sections that have no relevance to osteopaths or osteopathic practice, e.g. surgery etc.

The AOA's specific comments about the consultation are presented here by category.

Guidelines for advertising of regulated health services

- The AOA supports these guidelines with the proviso that AHPRA engages in effective education to assist practitioners in understanding these Guidelines and their implications.
- Many of our members find the existing guidelines to be non-specific and lacking enough detail to allow accurate decisions on whether their advertising complies or not. Further as neither AHPRA nor the Boards appear willing to give an interpretation or further clarification on these vagaries practitioners are left in an awkward, uninformed or unfair position.
- The guidelines fail to clarify the difference between a Clinical Case Study and a testimonial. Under *8.2 Advertising of Qualifications and Titles / 8.2.2 Advertising of specialties and endorsements*, the professional associations of most allied health professions in Australia have clinical special interest groups and designated practiced based learning pathways. The AOA notes that the Physiotherapy Board of Australia (in Appendix 5) recognises the credentialing systems of the Australian Physiotherapy Association (the Australian College of Physiotherapy). As such the Physiotherapists are able to have their advanced standing in sub-domains of practice recognised in the absence of specialist registration or endorsements being available for the profession. The AOA supports such pragmatic interpretations of the National Law. The AOA is currently implementing a tiered credentialing system of clinical interest groups and would object, once similar arrangement are place for the osteopathic profession, if osteopaths were disadvantaged by not being able reference their advanced standing through processes established by their professional body. As highlighted under the code of conduct and mandatory reporting guidelines (below), currently osteopathy does not have a defined scope of practice, endorsed by the regulator, and as such many osteopaths undertake a variety of treatments that may or may not be strictly osteopathy and/or standard practice. Given this, what guidance can the OBA give osteopaths who may need to consider the limits of their competence and scope of practice?

Code of conduct for registered health practitioners

- The AOA supports these guidelines with the proviso that AHPRA engages in effective education to assist practitioners in understanding this Code and its implications.
- *3.3 Effective communication (b) encouraging patients or clients to tell a practitioner about their condition and how they are managing it, including any other health advice they have received, any prescription or other medications they have been prescribed and any other conventional, alternative or complementary therapies they are using.* If terms such as “conventional,” “alternative” and “complementary” are used it could be problematic if they are not defined. As highlighted under the advertising and mandatory reporting guidelines, currently osteopathy does not have a defined scope of practice, endorsed by the regulator, as such many osteopaths undertake a variety of treatments that may or may not be strictly osteopathy and/or standard practice. As such, what guidance can the OBA give osteopaths who may need to consider the limits of their competence and scope of practice?

Social media policy

- The AOA supports the general approach and agrees that a Social media policy ought to exist in conjunction with the Code of Conduct, with appropriate cross referencing or within the

Guidelines for advertising (Naturally each ought to exist as a coherent, instructive, and useable document in itself.)

- The AOA does agree with “the approach of [AHPRA] referring practitioners to other sources for guidance on social media that goes beyond the National Boards’ regulatory role,” but we emphasize that the Boards’ regulatory role is well defined and understood, and this confers on the Board itself a normal routine responsibility actively to guide rather than to refer.
- The AOA understands that restrictions placed on Australian practitioners’ lawful advertising apply regardless of the particular mode or type of media involved. While a Social media policy per se therefore is appreciated, its content must accord with the overall legislation governing commercial and personal speech and communication about osteopathy and osteopaths.
- The AOA remains concerned that the swift development and likely ubiquity of social media platforms, including many not yet even devised, will undermine any attempt to regulate social media differently from other media.
- We respectfully reiterate our request for clarity in regards to advertising directories such as “True Local” and other websites compiled by data-mining for directory details, which therefore often operate without the practitioner’s awareness.
- Similarly, we remain concerned by the impossible apparent obligation on a practitioner to moderate or delete testimonials or unlawful praise about which the practitioner is necessarily ignorant.
- If there is going to be an obligation on practitioners routinely to sweep the world’s electronic media for well-intentioned praise by patients that inadvertently constitutes unlawful advertising, we strongly urge that regulation of this obligation occur in the proper context.
- This context is that our members are practising health professionals with busy patient loads and already burdensome administrative obligations.

Guidelines for mandatory notifications

- The AOA supports these guidelines with the proviso that AHPRA engages in effective education to assist practitioners in understanding these Guidelines and their implications.
- While the guidelines explain a range of scenarios, they are still vague and lacking in detail. The guidelines still lack information on what a practitioner should do when a patient identifies another practitioner as having breached the codes. If such third party reports do not require mandatory reporting this guideline should be clear in this regard.

Once again we thank you for this opportunity to comment.

Antony Nicholas
Executive Director