

COMPLAINING ABOUT CHIROPRACTORS AND AHPRA'S RESPONSE – A JOURNEY AND A TEST CASE

The Advertising of Therapeutic Goods and Services
and its Regulation.

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Friends of Science in Medicine

- Formed because of concerns that some universities where **teaching "pseudoscience"**
- Providing the incredible with **undeserved credibility**
- Mantra: - "Credible scientific evidence of clinical effectiveness **should underpin the delivery of health care** in Australia."
- Speak for more than **1200 similarly concerned** scientists and clinicians.

Health Advertising and Consumers

- **Fraudulent, misleading and ineffective** healthcare is rampant in Australia. Health literacy at 40%
- Effective Consumer protection involves **prevention**. Numerous regulatory weaknesses
- TGA, poor record, move to more **industry self regulation**, verification of claims 80% failure rate. **Traditional use trumps** scientific evidence.
- **Federal Government** complacency.
- Failure to respond to NH&MRC review of 18 Alternative therapies.
- Supplement/vitamin/weight loss frauds. Many **Pharmacists** can't be trusted

Registered Health Professionals and “Pseudoscience”

- **To better protect consumers**, Chiropractors, Osteopaths and practitioners of TCM were to be nationally registered under the AHPRA umbrella.
- 2012-Chiropractic and FSM- Anti-Vax advice, Vision to become **major provider of Primary Care with an emphasis on the care of babies and children** (CAA) significantly broadening scope of practice.
- Justification? Adoption of “vitalistic” Chiropractic care which involves the acceptance of **“Subluxation” theory**.

CHIROPRACTORS AND SUBLUXATION

- Nonsense (no science) theory: - There is associated with the spinal skeleton, an **innate energy (invisible) the integrity of which is essential for whole of body health**. Minor distortions of the spine (subluxations) can interfere with this vital force but “adjustments” can correct the defects.
- Soon many hundreds of Chiropractic websites were suggesting adjustment could help with **more than 60 non-musculoskeletal conditions**.
- Enormous commercial investment.

Common Non-evidence based claims

- Autism, Allergies, Bed-wetting, Bell’s Palsy, Asthma, infant colic, developmental delay, eating habits, ear infections, ADHD, chronic colds, Bi-Polar depression, Constipation, Croup, Cough, Skull deformations, Epilepsy, Interrupted sleep, Eye problems. and pregnancy services including turning a “Breech” baby (Webster technique) and SOT for post birth trauma

AHPRA its BOARDS and FSM

- Concerned by the proliferation of non-evidence based care we sent AHPRA an initial six complaints.
- Investigation **was incredibly slow** often involving “hand offs” to two or three case workers.
- Our research soon showed that **many hundreds of Chiropractors were breaking the National Law** by making non-evidence based claims for the treatment of many conditions.
- We compiled and submitted complaints involving **more than 1200 Chiropractors**.

What we learnt about AHPRA

- Executives dedicated but hamstrung by **inadequate legislation and the organization’s culture**.
- See promotion of diversity and flexibility for registrants as primary role not consumer protection. **Risk stratification approach is flawed** with inadequate appreciation of harm done to consumers from delay in accurate diagnosis and treatment, the stress caused by false hope and the loss of a lot of money for no benefit.
- **Clinician expertise** needed on Executive.

AHPRA'S BOARDS – The CBA

- CPD points granted for **pseudoscientific courses** often with vaccination bias.
- CBA had given the CAA the role of supervising CPD.
- Some CBA member's practice **breached the National Law**
- **Board did not see complaints**, they were directed to a separate complaints unit.
- Productive meeting with the Board. Letter to all registrants.

CBA and AHPRA RESPONSE

- Letter re importance of **advertising being evidence based**.
- "Chiropractors are not trained to apply any direct treatment to an unborn child and should not deliver any treatment to the unborn child. Chiropractic care must not be represented **or provided as treatment to the unborn child as an obstetric breech correction technique**".
- Clearly aimed at limiting the "Scope of Practice" but **no authority to enforce** this order!
- Simultaneously FSM reported hundreds of **Osteopaths** who were breaking the National Law and later, hundreds of **practitioners of TCM** who were also doing the same.

AHPRA SWAMPED

- AHPRA must investigate each complaint (30 hours)
- At last year's meeting we urged the AHPRA executive to develop a "class action" approach to speed up the process
- Agreed to give registrants a chance to fix their advertising before formal investigation started. New unit to oversee.
- Provide concrete example of what should not be advertised (e.g. Osteopathic management of "glue ear". Initiative still in early phase of development.

AHPRA and COMPLIANCE

- Meeting with AHPRA last month
- New "fix it while you can" regimen compliance 40% (Chiropractors 50%).
- AHPRA and Board chairs-- "Most want to do the right thing."
- Many complain the Law on advertising is so complicated and no time to read a 200 page document!
- Not credible. Huge commercial investment. No sign that changing "hearts and minds"

Chiropractors and Compliance

- Website wriggle; ACP gave recent support for a **Rubicon conference in Melbourne for “Vitalistic” chiropractors.**
- Many Chiropractors claim that they have **specialist qualifications.**
- We are submitting to AHPRA 100+ websites where Chiropractors claim to be able to eliminate dangerous **“Neonatal Retained Reflexes”** that cause a myriad of childhood problems. So much for compliance to EB advertising.

AHPRA and Consumer Protection

- Responsible advertising in health care is important in healthcare but **responsible health care is more important.**
- Achilles Heal! AHPRA can regulate what you say **but not what you DO** (Scope of Practice). Would not pass the “pub test”.
- At the end of 2016, after a lot of publicity re chiropractic treatment of children, Health Ministers (COAG Health Council) asked AHPRA what it could do to better protect children

AHPRA response re Scope of Practice

AHPRA and the Board understand that some stakeholders consider that **the Board should develop a registration standard to regulate the scope of practice for chiropractors.**

- The National Law enables a National Board to develop and recommend to the Ministerial Council, a registration standard for the scope of practice of health practitioners registered in the profession.
- However, only one National Board has developed such a standard in the six years that the National Scheme has been in operation.
- The **Dental Board of Australia developed a registration standard** that sets out the National Board's requirements for the scope of practice for the different divisions of dental care.

AHPRA did not seek authority to control scope of practice

- “The Board and AHPRA note that limiting chiropractors’ scope of practice in relation to treatment of babies and children would have **potential impacts on workforce flexibility and access to health services for some consumers and may have flow on implications for other registered professions who provide manual therapy to children and infants**”.
- !!!!!!!

FSM suggestions for AHPRA's response to Ministerial enquiries

- We are concerned that hundreds of chiropractors advertise services to adults, and particularly children and pregnant women, **that are not evidence based** and are potentially dangerous.
- We used to tell you in good faith that such problems were limited to a small number of registrants with the majority doing the "right thing". Given the very large number of chiropractors, reported to us because of misleading advertising, **we now recognise the magnitude of the problem.**

What AHPRA should have said

- The Chiropractic Board of Australia (CBA) has forcefully reminded, indeed instructed, the profession on the need for scientific evidence of effectiveness to underpin services/treatments offered. We have told registrants that they may not offer treatments that affect the unborn child but **this authoritative sounding demand on limiting the scope of their practice is not underpinned by legislation**

What AHPRA should have said

- Our complaints unit must address each individual complaint under current legislation.
- When appropriate corrections are made **the complainant is merely notified that AHPRA believes compliance has been achieved.**
- We feel that, as is the case with other complaint bodies, such as the Therapeutic Goods Advertising Complaint Resolution Panel, details of our determination regarding the complainant's allegations and the practitioner's response to our determination **should be on a public register.**

What AHPRA should have said

- Ministers it has become ever clearer that we need to be more concerned about **aspects of "harm done" other than direct physical harm.**
- We recently reported a "win" that we hope will send shockwaves through the profession as we saw **a chiropractor, who claimed to be able to cure cancer, heavily fined by a magistrate.**
- In truth perhaps even more harm (with potentially life long consequences) is done **when a chiropractor "treats" autism thus denying a child the precious and crucial need for early effective intervention.**
- I am sure you will agree **that we must be more conscious** of the harm done by providing false hope, delaying accurate diagnosis and timely treatment and financially disadvantaging clients as they receive no benefit.

AHPRA and Consumer Protection

- National registration has many advantages but AHPRA needs **more resources and powers to protect consumers**.
- Mistake not to ask for these from **COAG Health Council**. Minister's confidence misplaced.
- AHPRA CEO noted that "Ministers highlighted that the community can have confidence that health professionals in Australia **meet a national standard based on safe practice**". Not so unfortunately.