

**Feedback on the Public Consultation on
common guidelines and code of conduct**

**Presented to the Australian Health
Practitioner Regulation Agency (AHPRA)**

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Authorised by:

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About the APA

The Australian Physiotherapy Association (APA) is the peak body representing the interests of over 14,000 physiotherapists and their patients. APA members are registered with the Physiotherapy Board of Australia, have undertaken to meet the APA Code of Conduct, are expected to use the latest research in practice and often have further and/or specialist qualifications.

The APA sets a high standard for professional competence and behaviour and advocates best practice care for clients. It is our belief that all Australians should have access to quality physiotherapy, when and where required, to optimise health and wellbeing.

Vision

To be a focus of excellence for the global physiotherapy community.

Belief

All Australians should have access to quality physiotherapy, when and where required, to optimise health and wellbeing.

Mission

To evolve into a more member-centric organisation that gives value to members and to support our belief.

1. Advertising Guidelines

- **Do you agree with the changes to the advertising guidelines?**

On the whole the APA agrees that the revised Guidelines for advertising do provide greater clarity than the previous version.

It is clear from the APA's extensive consultation with its members that not everyone is familiar with the advertising guidelines - or even aware they exist. Data from the survey the APA conducted specifically for the purpose of this submission shows that 14% of members did not know the guidelines exist and of the remaining 86% only 45% have read them.

These concerning statistics highlight that Australian Health Practitioner Regulation Agency (AHPRA) / Physiotherapy Board of Australia (PhysioBA) have been unsuccessful in their efforts to advise registrants of their obligations under the law. It is therefore essential AHPRA informs all registrants of the new guidelines and codes when they are published. The marketing and communication plan should be reviewed as it is clear, given these statistics, that the current methods being used are not effective.

The APA strongly supports consistency in the application and enforcement of the guidelines. Our members have highlighted during our consultation with them that there are discrepancies in this area, not only within the profession but between the fourteen registered health professions. The association would therefore recommend that the notification and enforcement process are reviewed and standardised after this review.

- **Is there any content that needs to be changed, deleted or added to in the revised guidelines?**

The APA believes that the following sections still need some revision:

Page 13, section 7.2.1

The APA commends AHPRA for making reference to the Australian Competition and Consumer Commission (ACCC) in this section. However, if the ACCC information is not specifically detailed, practitioners are unlikely to independently seek out this information. The association would recommend that the ACCC information is detailed in this section.

Page 14, Section 7.2.3

Feedback from members indicates that testimonials are the area in which practitioners have most commonly breached the guidelines. Eleven of our members have had notifications in relation to their advertising and six of these were related to the use of testimonials.

The APA does not believe that all social media activity is by definition advertising, or that every interaction with clients online necessarily is a testimonial - even if it can be viewed by others. Therefore it is important to clarify how the use of testimonials in advertising breaches the guidelines.

For this reason the APA recommends that the updated guidelines make explicit reference to social media in the context of testimonials in this section not in a separate section (section 8.1) as is currently the case.

The APA is concerned that this is an area which will become more problematic with the evolution of social media. Investing in this piece of work and in an effective communication strategy to inform registrants of the new guidelines should lead to fewer notifications which will ultimately be less costly for AHPRA and the Boards to enforce.

Some of our members have highlighted that the current guidelines on testimonials will be extremely difficult to comply with on social media and may limit the growth of physiotherapy businesses. In many practices 40-50% of new patients come from word of mouth. In essence, it is a huge driver of growth in physiotherapy practices. In the past people would have communicated one on one directly with friends or family but now increasingly they turn to social media to make or receive recommendations. Areas of particular concern include:

- **Removing comments from patients on social media.**
The APA disagrees with the notion that a provider is responsible for removing comments by patients /clients from social media. There is the risk that this may offend the person that has taken the time to post something favorable about a health service or practice. Recommending that physiotherapists delete comments from happy customers seems not only a huge task, but increasingly out of step with how social media is used in mainstream contemporary society.
- **Monitoring and removing “tweets” that they may have been sent praising a service.**
Twitter is an instantaneous medium and the notion that a tweet could be ‘removed’ once it has been tweeted is nonsensical.
- **Removing only good comments may damage the business.**
There will be nothing to outweigh negative comments or opinions if all positive comments have to be removed.

Another area that needs greater clarity is the detail in Section 133 stating *that testimonials should not be used about the service or business*. It is unclear from this whether a registrant would be implicated if a testimonial is placed on a practice’s social media page and specifically references an individual physiotherapist. Given the fact that the majority of testimonial activity will inevitably be on a practice’s websites, greater clarity should be provided in these guidelines to specifically address this issue.

This is an important point to consider given the fact that a large number of our members stated they believed they would not be implicated in breaching the guidelines if they were not responsible for setting up practice social media and web pages.

Many highlighted that they felt they did not need to read the guidelines for this reason. The evolution of social media now means even if practitioners are not responsible for setting up practice social media pages they could still break the law if a client makes comment about them on the practice website. This needs to be clarified in the guidelines.

Patient stories

The APA believes that patient stories are a valuable tool to assist health literacy of individuals – particularly with respect to their journey through the health system.

Recognising the potential for misuse of these stories it is suggested that a disclaimer could be included to prevent the presentation of information that could be misinterpreted by the general public.

Page 16 Section 7.2.5

Physiotherapy has an important role to play in preventative health care. The APA believes that time limited offers are appropriate in the private sector as these can provide patients/consumers with the opportunity to use their discretionary budget on their health needs in a cost effective way. However offers should be accompanied with clear terms and conditions and it should be clear that there is a clinical advantage to the patient for up taking this offer.

Page 16 Section 8.1

The detail in this section relates to testimonials however the APA feels that this information should be dealt with under section 7.2.3 where testimonials are discussed, otherwise the structure is too fragmented.

Page 16, section 8.2.3

The APA agrees with the changes made in this section, although there should be some discussion about how a registrant may appropriately use overseas qualifications in advertising / marketing material.

- **Is there anything missing that should be added to in the revised guidelines?**

No

- **Do you have any other comments on the revised guidelines?**

No

2. Code of conduct

- **How is the current code working?**

The view of the APA is that the current code is working very well.

Data from AHPRA indicates that there are very few breaches within the profession which is probably a reflection of the high level of understanding amongst physiotherapists regarding acceptable professional behavior.

- **Is the content of the revised code helpful, clear and relevant?**

The APA believes the overall content of the revised code is clear and relevant.

The APA strongly supports the amendment in the code to rewording and making reference to the Aboriginal and Torres Strait Islander people under section 3.7.

- **Is there any content that needs to be changed, added or deleted in the revised code?**

Page 35, Section 2.3

The APA would still like to suggest that this section is further refined by adding a sentence such as: "Practitioners have the responsibility to create and foster conditions for this to occur".

Page 35, Section 3.15

The APA believes that the comment "or when an employed practitioner moves between practices" should be removed. In a competitive health care environment it is unreasonable that a practice owner is obliged to provide a competitor with a potential client.

Page 36, section 3.3

The APA is pleased to note that AHPRA has now made reference to electronic communication in this section. However there are eleven points all relating to verbal communication but only one point relating to electronic. Given that electronic communication is a medium that practitioners are using more frequently there should perhaps be more detail on this method of communication.

The APA notes that the information on funded interpreter services has been removed. We would suggest that this is placed in the appendix so that it can be accessed by those to which it is relevant.

Page 43, Section 8.2

Explicit reference to professional boundaries within social media should be added in this section. The growth of social media has meant that the boundaries between personal and professional lives are even more blurred. It is essential that practitioners are, firstly, aware this is the case and secondly, that there are strategies they can adopt to maintain the distinction between their professional and personal lives.

For example, it is crucial that health professionals employ strict privacy and security settings even on their personal sites as there is a risk that patients will look up practitioners' personal information.

Page 37, Section 8.4 a:

Profession specific shorthand has a strong history in physiotherapy and is consistently used across all sectors. The APA therefore disagrees that records "should be in a form that can be understood by other health practitioners and without using profession-specific shorthand".

This is a particularly onerous requirement in settings where the physiotherapist works alone or only works with other physiotherapists. The APA agrees that part of the records used in a multidisciplinary setting should not be in profession-specific shorthand.

The APA suggests the wording be revised to state "should be in a form that can be understood by other health practitioners and without using profession-specific shorthand (if in multidisciplinary setting)".

- **Do you have any other comments on the revised code?**

The APA disagrees with the removal of the section on end of life care from the code. Whilst the association understands that this is not relevant to all health professionals it should still remain as it contains important information for those physiotherapists working in a range of areas such as gerontology, oncology, and palliative care.

3. Social media Policy

- **Do you support the approach of including general guidance in the draft policy, the guidelines for advertising and the code of conduct, with appropriate cross-referencing?**

The APA agrees with AHPRA's decision to include details of social media within the Code of Conduct and advertising guidelines.

- **Does the guidance in these documents reflect the National boards' regulatory role?**

The guidance in these documents does partly reflect the national boards' regulatory role, however the detail is vague.

The association recognises that there are many complex issues associated with social media. It is also acknowledged that it is impossible to provide guidance for all possible social media scenarios. Social media is a new medium which has many potential benefits to consumers and professionals however it needs to be used responsibly and professionally.

- **Do you agree with the approach of referring practitioners to other sources for guidance on social media that goes beyond the National Boards' regulatory role?**

The APA is concerned that if practitioners are referred back to their professional body it will inevitably lead to inconsistencies in the advice given between the different health professions.

In the APA's consultation with its members a number of practitioners highlighted that there is already inconsistencies in the way the advertising guidelines are enforced within the profession but between the fourteen registered health professions.

This will become even more of an issue if AHPRA does not take a leadership role in guiding social media use across all professions.

- **Is the content of the draft social media policy helpful?**

The APA does not think this policy is helpful as this document contains even less content than the original policy that was sent out to stakeholders in August 2012.

Social media is evolving rapidly and being used more frequently by practitioners across Australia. The characteristics of some common issues such as testimonials, professional boundaries and privacy are not clear cut in the realm of social media compared to traditional methods of communication.

Given the unique nature of social media, practitioners need explicit detail on its use. If this does not occur, more practitioners will be at greater risk of unintentionally breaching the guidelines which ultimately will be more costly for AHPRA from both a financial and time perspective to enforce. If more resources are invested now in developing a more thorough social media policy then fewer resources will be required in the future to enforce this policy.

- **Is there any content that needs to be changed, added or deleted in the draft policy?**

Neither this policy nor the other revised Advertising guidelines explicitly state when specific behaviours on social media sites are a breach of the legislation / guidelines and what responses are required. As has been highlighted above social media is a unique medium where the distinction between ethical and unethical behaviour is not clear cut. If practitioners do not have well-defined framework for behaviours there is a greater risk of breaching confidentiality and privacy. This has implications for individual patients and erodes the public's trust in not only physiotherapy but the other registered professions.

APA members have provided feedback that they are wary about using social media because they feel they don't have any clear guidelines to support them. Health professionals need to know which social media activities breach the National law and what behaviours are deemed unethical. The current policy does not give much specificity on either of these concerns

The APA understands that developing a social media policy is huge task with endless implications associated with its use. However, to be effective the guidelines need to provide specific details on some of the common dilemmas that practitioners may encounter. Some key areas where greater clarity would be useful are:

- **Site specific information and descriptions**
- **Privacy Settings**
- **Friend requests from patients**
- **Responding to posts from patients**
- **Discussing patients on social media**

In addition it would be a helpful addition in this policy to also make reference to help pages and guidance pages for the most common social media sites.

- **Do you have any other further comments on the draft policy?**

No

4. Mandatory notifications

- **How are the current guidelines working?**

The APA believes the current guidelines are working well and has not received any feedback from members expressing concern about this issue.

- **Is the content of the revised guidelines helpful, clear and relevant?**

Yes. The content is helpful, clear and relevant. The APA commends AHPRA on the addition of the section on “reasonable belief” as this will provide further clarification to physiotherapists.

- **Is there any content that needs to be changed, added or deleted in the revised guidelines?**

No

- **Is there anything missing that should be added to in the revised guidelines?**

No

- **Do you have any other comments on the revised guidelines?**

No