

Media statement

AHPRA and Chiropractic Board take action on false or misleading advertising

18 Jan 2016

The Chiropractic Board of Australia and AHPRA are working with other regulators to act on concerns about potentially false or misleading advertising by a small number of chiropractors.

Australia's regulators are focused on advertising that makes claims about the benefits of chiropractic care when these may not be supported by sufficient evidence.

The core role of Board and AHPRA is to protect the public and manage risk to patients.

The Australian Competition and Consumer Commission (ACCC) is now considering a number of referrals from AHPRA, as the ACCC has different powers under Australian Consumer Law.

Health regulators are also assessing cases against chiropractors for alleged false and misleading advertising, ahead of possible prosecution in the magistrates' court.

One of the ways that the Board protects the public is by acting on complaints about advertising under the Health Practitioner Regulation National Law, supported by Australian Health Practitioner Regulation Agency (AHPRA).

AHPRA and the Board have adopted an educative approach to dealing with most advertising breaches and possible statutory offences, which has dealt effectively with the vast majority of less serious complaints.

Under this strategy, AHPRA writes to the chiropractor requiring them to amend or remove their advertising to comply with the National Law.

Over the last five years since the National Scheme began, the vast majority of practitioners have responded to the first AHPRA warning letter and amended their advertising, eliminating the need for and cost of further regulatory action.

If the practitioner fails to amend or remove their advertising, the Board considers and often takes possible disciplinary action – either for breaches of professional conduct under the National Law or for a statutory offence, which can be prosecuted through the magistrates' court.

In dealing with advertising breaches by chiropractors, AHPRA has had discussions with the ACCC about matters which might raise concerns under Australian Consumer Law, which also prohibits false or misleading representations.

While most matters are effectively dealt with by health regulators under the National Law, the ACCC has agreed to explore a small number of matters which appear to be more serious or involve corporate chiropractic practices.

The Board and AHPRA are not able to comment on individual matters that are now underway to maintain the integrity of these processes.

Of the 10 cases referred to health regulators by Professor Ken Harvey in September 2015:

- AHPRA has raised three matters with the ACCC
- Four are subject to ongoing regulatory action (either disciplinary action by the Board or assessment for possible statutory offence prosecution) and
- Three cases were closed after the advertising was amended to comply with the law.

In 2014/15, AHPRA received 506 complaints about offences, down from 846 in the previous year. Complaints about advertising dropped from 547 to 300 in this period. Last year, 63 complaints about breaches of the National Law were received about chiropractic matters and 112 cases were closed, most after advertisers of chiropractic services amended or removed their advertising so it was legally compliant. (Some of the closed cases were received outside the 2014/15 reporting period).

AHPRA and the Board urge anyone with concerns about advertising breaches or professional standards to provide it to regulators.

Last week, health regulators urged Professor Harvey to provide them with any new information about advertising complaints, including about the three closed cases, so the Board and AHPRA can act again to protect patients.

Complaints about a chiropractor's advertising can be made [online to AHPRA](#) or by calling 1300 419 495 or in person at an [AHPRA office](#).

Professional standards

The Board expects practitioners to make sure any advertising claims are supported by a high level, good quality evidence.

Chiropractors must ensure that they do not advertise the health benefits of chiropractic care when there is not sufficient evidence that these benefits can be attained.

See the Code of conduct for chiropractors, Chiropractic guidelines for advertising of regulated health services; the fact sheet on [advertising](#) and [campaign information](#) published by the Board on its website.

- [Code of conduct for chiropractors](#)
- [Chiropractic guidelines for advertising or regulated health services](#)

The Board and AHPRA have an ongoing commitment to improving advertising complaints management.

Updated information about how to make a complaint about advertising has recently been published on the [AHPRA website](#).

The Board is promoting wider awareness of prosecutions of statutory offences and disciplinary outcomes to help educate the profession.

Publication of outcomes

The National Law defines what outcomes of regulatory action can be published. By law, reprimands,

conditions / limitations on registration and suspensions of registration are public and published on the [register of practitioners](#).

Cautions, and cases when the regulatory process itself has changed a person's practice and the Board has decided that no further regulatory action is needed to manage risk to patients, are not published.

Health regulators have received legal advice that more specific 'naming and shaming' outside the current limits of the law would be subject to defamation action.

For more information

- Read the Board's [September 2015 newsletter](#)
- [Annual Report](#) – go to statutory offences pp54-58
- Lodge an [online enquiry form](#)

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