



Issue 12 May 2006

Dear Registrant

On reflection, the 2005 Board year has seen many changes and innovations, not the least of which is the introduction of a new Registration Act, which will apply to all registered Victorian chiropractors.

The New Act

The *Health Professions Registration Act 2005* will officially come into operation on 1st July 2007. The Act seeks to introduce a common system for investigations and hearings relating to professional performance, professional conduct and ability to practice of all registered health practitioners. Essentially the current 12 individual health practitioners' registration Acts will be repealed and replaced with one Act.

Among the many changes the new Act will bring into effect are Student Registration, a requirement for Professional Indemnity Insurance as well as Continuing Professional Development and that serious breaches of the new Act will be dealt with by VCAT with the maximum fine payable to the Board now being \$50,000. Although the Department of Human Services is still finalising amendments to the Act it appears that only minor changes will occur before commencement on 1st July 2007.

The Board will keep you informed of the changes, once they become clear and definite.

Code of Professional Conduct

The Board has recently undertaken a revision of the Code of Professional Conduct Guidelines, which will be posted on the Board's website soon. All practitioners are encouraged to review these revised guidelines as well as the other guidelines available from the Board's website. (<http://www.chiroreg.vic.gov.au>)

Change of Address

In a previous Newsletter I made mention of the requirement for practitioners to notify the Board of any change of address within fourteen days of that change and that failure to do so is an offence under the Act. It would appear that not all practitioners are aware of this requirement as the Registrar is still receiving returned mail, including re-registration notifications, from practitioners who have moved and have failed to notify the Board. Please note that this requirement applies not only to your practice address but also your private address. Failure to meet this requirement can involve appearing before the Magistrates Court and the imposition of a fine of up to \$1,000.

Information and Contacts

If you are unsure or require further information on any topic, please contact the Registrar on:

Telephone (03) 9639 8652
Facsimile (03) 9639 8653

The Board has a home page on the Internet, the address is:

[chiroreg.vic.gov.au](http://www.chiroreg.vic.gov.au)

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Disposal & Retention of Patient Records

The Board has also received several complaints and queries regarding the retention and disposal of patient files, including clinical histories, examination findings and x-rays. Some of these queries and complaints also relate to how records are handled in the advent that a practitioner closes his or her practice. The Board's Website includes guidelines for the Management of Patient Records, which covers such areas as statutory requirements, guidelines for record keeping, the importance of adequate records, confidentiality, release of records etc.

With respect to the retention of records, this area is covered essentially by the *Health Records Act 2001*, www.health.vic.gov.au/hsc which sets out the various legislation and individual Acts relating to the retention and disposal of health care records. Most patient records must be kept for seven years except in the case of a child where the records can usually only be disposed of after the individual has attained 25 years of age. It is important to remember that when patient records are destroyed in accordance with the legislation, the practitioner must make a written note of the name of the individual to whom the health information related, the period covered by it and the date on which the record was deleted. Reasonable steps must be taken to protect the health information from misuse or loss and from unauthorised access, modification or disclosure and a health care provider must not delete health information relating to an individual even if it is later found or claimed to be inaccurate. Where records are transferred from one practitioner to another the provider who transfers the records must make a written note of the name and address of the individual or organization to whom it was transferred.

With respect to the closure or transfer of the practice of a health service provider Health Privacy Principle 10 states:

10.1 This Principle applies if the practice or business of a health service provider ("**the provider**") is to be--

- (a) sold or otherwise transferred and the provider will not be providing health services in the new practice or business; or
- (b) closed down.

10.2 The provider or, if the provider is deceased, the legal representatives of the provider, must--

- (a) publish a notice in a newspaper circulating in the locality of the practice or business stating--
 - (i) that the practice or business has been, or is about to be, sold, transferred or closed down, as the case may be; and
 - (ii) the manner in which the provider proposes to deal with the health information held by the practice or business about individuals who have received health services from the provider, including whether the provider proposes to retain the information or make it available for transfer to those individuals or their health service providers; and

(b) take any other steps to notify individuals who have received a health service from the provider in accordance with guidelines issued or approved by the Health Services Commissioner under section 22 for the purposes of this paragraph. Health Privacy Principles, extracted from the *Health Records Act 2001 (Vic)*.12

10.3 Not earlier than 21 days after giving notice in accordance with HPP 10.2, the person giving the notice must, in relation to health information about an individual held by, or on behalf of, the practice or business, elect to retain that information or transfer it to--
(a) the health service provider, if any, who takes over the practice or business; or
(b) the individual or a health service provider nominated by him or her.

10.4 A person who elects to retain health information must continue to hold it or transfer it to a competent organisation for safe storage in Victoria, until the time, if any, when the health information is destroyed in accordance with HPP 4.

10.5 Subject to HPP 10.2, a person must comply with the requirements of this Principle as soon as practicable.

10.6 Despite any other provision of the Health Privacy Principles, a person who transfers health information in accordance with this Principle does not, by so doing, contravene the Health Privacy Principles.

10.7 If-

- (a) an individual, in response to a notice published under HPP 10.2, requests that health information be transferred to him or her or to a health service provider nominated by him or her; and
- (b) the person who published the notice elects to retain the health information the request must be taken to be--
- (c) in the case of a request that the health information be transferred to him or her, a request for access to that health information in accordance with Part 5 or HPP 6; and
- (d) in the case of a request that the health information be transferred to a health service provider nominated by him or her, a request for the transfer of that health information in accordance with HPP 11--and it must be dealt with in accordance with this Act.

10.8 This Principle operates subject to any other law, including the *Public Records Act 1973*.

10.9 For the purposes of HPP 10.1 (a), a business or practice of a provider is transferred if--
(a) it is amalgamated with another organisation; and
(b) the successor organisation which is the result of the amalgamation is a private sector organisation.

Further explanation of this Health Privacy Principle is contained in the publication by the Office of the Health Services Commissioner (Victoria), "Statutory Guidelines on the Transfer or Closure of the Practice or Business of a Health Service Provider" <http://www.health.vic.gov.au/hsc/guidenot.pdf>
Registrants should be aware that there are private companies that store and dispose of files in accordance with these requirements.

Acupuncture Titles

For those chiropractors who practice dry needling or acupuncture, only those practitioners who have satisfied this Board's and/or the Chinese Medicine Registration Board's requirements are entitled to use the titles "Acupuncturist" or "Endorsed Acupuncturist". The title "Acupuncturist" is protected under the Chinese Medicine Registration Act (CMR Act) and it is an offence to use this title unless the chiropractor has the necessary endorsement. Practitioners should also be aware the title "Registered Acupuncturist" is reserved only for those practitioners who are separately registered under the CMR Act.

Contracts of Care

Much has been written in previous Newsletters regarding "Contracts of Care" and after much deliberation and discussion, including a recent meeting of the majority of Australian chiropractic registration boards, specifically to address this issue, this Board has decided that it does not approve of pre-paid contracts of care as they are not always in the public's best interest. However, it is the responsibility of every practitioner to provide his or her patients with a prognosis including an estimate of how many treatments and how long it will take to achieve maximum therapeutic benefit. It is also a practitioner's legal responsibility to disclose the full cost of his her treatment and obtain "Informed Financial Consent" before treatment commences. The Board has received many complaints simply because the chiropractor has failed to discuss the costs of their treatment with patients before therapy has commenced.

Prosecutions and Complaints

Given that a significant complaint is now the subject of a possible Supreme Court Appeal, it is not appropriate at this stage to provide details of recent cases.

Once this matter has been resolved, the Board will provide you with an overview of recent findings of Complaint Hearings.

I would also like take this opportunity to officially thank and express my sincere gratitude to my fellow Board members, past and present, as well as our Registrar, Ken Badenoch and the Assistant Registrar, Paul Fisher for their continued support and contribution. Finally, I would also like to take this opportunity to thank the many individuals behind the scenes, who make up the various committees that provide a lot of the background research and information, which greatly assists the Board in its decisions and deliberations. So my sincere thanks is extended to all those chiropractors who have served on the various committees throughout the past year. A special vote of thanks is also extended to the Education and Standards Committee, and it's Chair Professor Andries Kleynhans, for the expert advice and assistance they have provided the Board throughout 2005.

Dr. John W. Reggars
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