

Communiqué

1 May 2017

The Pharmacy Board of Australia (the Board) meets each month to consider and decide on any matters related to its regulatory function under the National Law¹ and within the National Registration and Accreditation Scheme (the National Scheme).

This communiqué aims to inform stakeholders of the work of the Board and matters regarding the National Scheme. Please forward it on to colleagues and employees who may be interested in its content.

Update on the review of the Code of Conduct

The Board's [Code of conduct](#) (the Code) is also used by ten other National Boards (Aboriginal and Torres Strait Islander Health Practice, Chinese Medicine, Chiropractic, Dental, Medical Radiation Practice, Occupational Therapy, Optometry, Osteopathy, Physiotherapy and Podiatry), with some minor profession-specific changes for some Boards including Pharmacy.

The Code is a regulatory document that provides an overarching guide to support and inform good practice and to assist practitioners, National Boards, employers, health care users and other stakeholders to understand what good practice involves. It seeks to assist and support practitioners to deliver safe and effective health services within an ethical framework.

As the Code was last published in March 2014, the Board has started a scheduled review with other National Boards that use the Code, which will draw on best available research and data and involve additional stakeholder consultation and engagement.

The review is still at an early research phase. However, the Board is already considering how it can maximise opportunities for input when the consultation stage of the review starts. In addition to public consultation, the Board intends to use its website and other social media to inform the profession of how it can contribute to the review. The Board will highlight opportunities to be involved in upcoming communiqué and newsletters.

Meeting your legal and professional advertising obligations

Registered health practitioners who advertise health services need to **check, correct** and **comply** with their professional and legal advertising obligations.

Under the National Law, a regulated health service or a business providing a regulated health service must not advertise in a way that:

- is false, misleading or deceptive
- uses gifts, discounts or inducements without explaining the terms and conditions of the offer
- uses a testimonial or a purported testimonial
- creates an unreasonable expectation of beneficial treatment, and/or

¹ The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

- directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.

There are also restrictions on advertising in a way that identifies a health practitioner as a specialist when they do not hold registration as a specialist or as an endorsed practitioner in a health profession.

The National Boards and the Australian Health Practitioner Regulation Agency (AHPRA) have published a strategy for the National Scheme aimed at keeping health service consumers safe from misleading advertising.

The [Advertising compliance and enforcement strategy](#) explains how National Boards and AHPRA will manage advertising complaints and compliance, including the regulatory powers available to deal with breaches of the National Law.

The strategy is designed to keep improving how regulated health services are advertised so healthcare consumers can be better informed.

When preparing advertising, registered health practitioners should always put the consumer first and ensure that their advertising is not [false, misleading or deceptive](#) in any way.

This strategy builds on the previous education and enforcement work from National Boards and AHPRA.

More information is available on the [Advertising resources](#) section of the AHPRA website and more information will be published in coming months.

Former pharmacist fined for holding himself out as a registered pharmacist

A former pharmacist in Western Australia has been convicted of holding himself out as a registered pharmacist while not being registered under the National Law.

Mr Brian Geoffrey Donegan was sentenced at Geraldton Magistrates Court after he pleaded guilty to seven charges. The charges, which were brought by AHPRA, relate to holding himself out, and claiming to be a registered pharmacist while not being registered, and on two occasions using the protected title 'pharmacist' while not being registered to do so under the National Law.

Mr Donegan admitted to working as the sole pharmacist on duty at Northampton Pharmacy between October 2015 and June 2016. In this period, he admitted to dispensing both Schedule 4 and Schedule 8 medicines to patients while not holding registration as a pharmacist.

Mr Donegan admitted that on two separate occasions, he used the protected title 'pharmacist' by allowing his name to be displayed on a 'pharmacist on duty' sign. Mr Donegan also admitted to submitting, to the owner of Northampton Pharmacy, a fraudulent certificate of registration stating that he held unrestricted registration at the relevant time.

The National Law protects the public by ensuring that only registered health practitioners who are suitably trained and qualified are able to use [protected titles](#). The law allows for penalties for falsely using protected titles or holding out to be a registered practitioner. The maximum penalty which a court may impose is \$30,000 (in the case of an individual) or \$60,000 (in the case of a body corporate).

The court ordered Mr Donegan to pay a fine of \$10,000 and costs to AHPRA in the amount of \$1,085. The court refused an application by Mr Donegan for spent conviction* orders (**a spent conviction is a criminal conviction that is treated as though a formal conviction was not recorded by a court*).

Further information

The Board publishes a range of information for pharmacists on its website at www.pharmacyboard.gov.au. For more information about registration, notifications or other matters relevant to the National Registration and Accreditation Scheme also refer to information published on www.ahpra.gov.au or send an [online enquiry form](#) or contact AHPRA on 1300 419 495.

Follow AHPRA on social media

Connect with AHPRA on [Facebook](#), [Twitter](#) or [LinkedIn](#) to receive information about important topics for your profession and participate in the discussion.



William Kelly
Chair, Pharmacy Board of Australia
1 May 2017

[The Pharmacy Board of Australia](#) is the regulator of pharmacists in Australia and acts to protect the public by ensuring that suitably qualified and competent pharmacists are registered. The Board is responsible for developing registration standards, codes and guidelines for pharmacists and managing notifications (complaints) about pharmacists and pharmacy students. The Board does this through its powers under the Health Practitioner Regulation National Law, as in force in each state and territory, and the National Registration and Accreditation Scheme, supported by the Australian Health Practitioner Regulation Agency (AHPRA). The Board's work in regulating Australia's pharmacists in the public interest is underpinned by [regulatory principles](#), which encourage a responsive, risk-based approach to regulation.*

**Except in NSW and Qld which have co-regulatory arrangements.*