



Information on the Practice of Osteopathy in Australia

A guide for graduates trained overseas

Acknowledgements

The assistance of the Australian Osteopathic Association in the production of this report is acknowledged with gratitude. Some of the information in this document was adapted from:

Australian Osteopathic Association

Osteopathic Graduation Package - An Information package for Osteopathic students in their graduating year.

Ensuring the quality of the information included in this Guide

AOAC is committed to ensuring the accuracy of the information contained within this Guide. The Qualifications and Skills Assessment Committee (QSAC) is required to undertake a formal review of the Guide at least every year. The review will involve consideration of:

- Changes to organisational structure

- Changes to standards, professional registration requirements, regulatory authority developments and changes to government policy
- Any outcomes of compliance monitoring and implementation evaluation conducted by the QSAC

Amendments may be considered at any time and the QSAC may undertake an informal review of all or part of the Guide at any time as required, any changes recommended by the QSAC are approved by the AOAC Board of Directors.

Version 1.1 Approved by the AOAC Board of Directors 14 February 2014

Version 1.2 Approved by the AOAC Board of Directors 28 November 2014

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1.0 Overview of Australian Society and Government

An excellent overview of Australian society, government, health status and health care delivery and financing can be found in the Australian Bureau of Statistics 'Year Book Australia, 2012'.

www.abs.gov.au/ausstats/abs@.nsf/mf/1301.0 [copy this URL into your browser to avoid automatic diversion to email]

The *Overview of Australian society and Government* section of this document is excerpted mainly from that publication.

Population

Australia's population was over 22 million in 2010 and increases at an average of 1.5% per annum. Since 2006 net overseas migration has contributed more to the population than natural increase, adding about 200,000 in 2010.

The population is ageing with the proportion of the population in older age groups increasing while the proportion in younger age groups has declined.

Most of Australia's population is concentrated in two widely separated coastal regions – the south-east and east, and the south-west. The south-east and east is the largest in area and population. The population within these regions is concentrated in urban centres, particularly the capital cities.

Aboriginal and Torres Strait Islander population

The estimated Aboriginal and Torres Strait Islander population at 30 June 2006 was 517,000 people or 2.5% of the total Australian population. Of the total Aboriginal and Torres Strait Islander population, 152,700 (30%) lived in New South Wales, 144,900 (28%) in Queensland, 71,000 (14%) in Western Australia and 64,000 (12%) in the Northern Territory. The Northern Territory had the largest proportion of its population who were Aboriginal and Torres Strait Islander people (30%), compared with 4% or less for all other States and the Australian Capital Territory.

The Aboriginal and Torres Strait Islander population is a relatively young population with a median age of 21 years compared with 37 years for the non-Indigenous population. The age structure of the Aboriginal and Torres Strait Islander population reflects higher rates of fertility and deaths occurring at younger ages. In the period 2005--2007, life expectancy at birth was estimated to be 67.2 years and 72.9 years for Aboriginal and Torres Strait Islander males and females respectively. This is well below the estimates of 78.5 years and 82.4 years for total males and females respectively for the same period.

Overseas born population

Over a quarter of the Australian population was born overseas. Since the 1980s, the patterns of immigration to Australia have changed and the diversity of the population has increased. Of the overseas-born population, the United Kingdom remains the largest source country representing 20% of all Australian migrants in 2010.

The New Zealand-born population living in Australia was the second largest overseas-born group making up 9% of the overseas-born population in 2010. Other migrant streams have increased their proportion over recent decades particularly from China, India, the Philippines, South Africa and Malaysia. For example, the China-born population trebled from 121,200 people in 1996 to 379,800 people in 2010 (making up 6% of the overseas-born population).

Government

Commonwealth of Australia

Australia has a federal system of government and the formal powers of the Commonwealth Parliament are constitutionally limited to areas of national importance such as trade and commerce, taxation, postal services, foreign relations, defence, immigration, naturalisation, quarantine, currency and coinage, weights and measures, copyright, patents and trademarks. However, High Court decisions, Commonwealth-State agreements and use by the Commonwealth of the constitutional power to make grants to the States and territories, have allowed the Commonwealth to gain influence regarding various other matters including industrial relations, financial regulation, companies and securities, health and welfare, and education.

State and Territory Governments

The Australian nation was created by the federation of the six British self-governing colonies of New South Wales, Tasmania, Queensland, Western Australia, Victoria and South Australia, which became the 'Original States' in the Commonwealth of Australia. Under the constitutional arrangements that came into existence in 1901, these States retained significant powers. State administrative responsibilities include education, police, public health, public transport, agriculture, roads, community services, corrective services, mineral resources, emergency services, ports and the oversight of local government.

The Australian Capital Territory and the Northern Territory have similar but more limited rights and responsibilities of self-governance.

In all States, many of the responsibilities of a local nature are performed either directly by the State government or through semi-government authorities, known as statutory authorities. A statutory authority operating under State legislation, for instance, often undertakes the provision of household water.

Local Government

Local government has a limited constitutional position in Australia, being organised under State or Territory legislation upon broadly similar lines across Australia. Within each local government area, various services are provided, though there are many variations between States as well as between urban and rural councils. Local government responsibilities may include sanitary and garbage services; road, street and bridge construction; water supply and sewerage; local libraries and museums; fire brigades; harbour services; town planning, and some local health and welfare services.

Each State and Territory has several local government areas, known variously as cities, towns, municipalities, boroughs, shires or districts. The main variation is the existence of various councils in the Northern Territory that are based on rural Aboriginal and Torres Strait Islander communities. The generic local body is the council and in December 2011, there

were 565 local councils in Australia. Councillors and aldermen are elected by local residents, though councils may be dismissed by State governments – and occasionally are.

2.0 National Health Care System

Australia's health care system is funded and administered by several levels of government (national, State/Territory and local) and is supported by private health insurance arrangements. The Australian Government is primarily responsible for health service funding; regulation of health products, services and workforce; and national health policy leadership.

The States and Territories are primarily responsible for the delivery and management of public health services (including public hospitals, community health and public dental care), and the regulation of private health facilities.

The Australian and State/Territory governments fund and deliver a range of health services including population health programs, community health services, health and medical research, Aboriginal and Torres Strait Islander health services, mental health services, health workforce and health infrastructure.

Local governments fund and deliver some health services such as environmental health programs.

Australia's national public health insurance scheme, **Medicare**, is funded and administered by the Australian Government and consists of three health care components – medical services (including visits to general practitioners (GPs) and other medical practitioners), prescription pharmaceuticals and hospital treatment as a public patient (the latter is jointly funded by the Australian and State/Territory governments).

This public system is supported by optional private health insurance (and injury compensation insurance) for hospital treatment as a private patient and for ancillary health services (such as osteopathy, physiotherapy and dental services) provided outside a hospital.

Most medical and allied health practitioners are employed in private practice with a small number of doctors and allied health professionals employed as salaried employees of the various tiers of government. Most osteopaths work in the primary care setting and are usually self-employed.

3.0 Health care funding in Australia

Federal and State responsibilities in health care are complex and subject to change as negotiations over health reform between various levels of government evolve.

The Commonwealth Department of Health and Ageing website provides regular updates and newsletters: www.health.gov.au. The website also provides a comprehensive set of resource documents for health professionals covering major health related issues: <http://www.health.gov.au/internet/main/publishing.nsf/Content/For+Health+Professionals-1>.

The Australian Government has **national** responsibility for the following major health funding mechanisms:

- The Medicare Benefits Schedule (MBS) component of Medicare provides rebates for medical and hospital services to all Australian residents. Details of how to work within the Medicare arrangements are provided in later sections of this document. □ The Medicare 'Allied Health Initiative' allows chronically ill people who are being managed by their general practitioner (GP) under a Chronic Disease Management (CDM) Plan access to Medicare rebates for allied health services.
<http://www.health.gov.au/internet/main/publishing.nsf/Content/mbsprimarycare-factsheetchronicdisease.htm> You need to register for a Medicare provider number to participate in this scheme.
- The Pharmaceutical Benefits Scheme (PBS) component of Medicare provides rebates to private patients for a wide range of prescription pharmaceuticals. Osteopaths are not currently able to prescribe.
- Health services for war and defence service veterans are provided under schemes administered through the Department of Veterans' Affairs. If you are registered to provide services through the Medicare Benefits Scheme, you are automatically registered with the Department of Veteran Affairs (DVA) to provide health services to entitled persons (DVA uses the same registration process and provider numbers).
- National Health Reform funding associated with the National Healthcare Agreement enable each State and Territory to fund a range of public hospital and health services, including the public hospital component of Medicare.
- National Partnership Agreements (NPAs) fund the delivery of specific projects or reforms by States and territories. These currently include hospital reform, preventive health, workforce reform, Aboriginal and Torres Strait Islander health, elective surgery, e-health, vaccines, health infrastructure projects and a range of health services, including cancer screening and health protection programs.
- The private health insurance rebate subsidises the cost of private health insurance premiums, making it easier for Australians to access treatment as private patients in hospital, as well as a range of ancillary health services.

Each State and Territory administers Workers' Compensation generally known as WorkCover and motor accident schemes. These are described in a later section of this document.

Role of private health insurance

Approximately half of Australians have private health insurance with one of several health insurance funds. This is an important area for osteopathy. There is a great deal of variation in the reimbursement rates for osteopathic services between different funds and within different levels of cover in a single fund. Most, but not all, funds will reimburse for osteopathic treatment.

Some private health funds may not operate in all States and territories. Some funds restrict their eligibility for membership to particular professions. The Commonwealth regulates private health funds and there is a great deal of information on the funds available for the public and practitioners: <http://privatehealth.gov.au>

4.0 Key osteopathy organisations

4.1 Osteopathy Board of Australia [OBA]

www.osteopathyboard.gov.au

Osteopathy has been regulated in Australia under various State and Territory legislation since the 1970s. In July 2010 with the implementation of the Health Practitioner Regulation National Law Act (2009) as in force in each State and Territory (the National Law). This Act established the Australian Health Practitioner Regulation Agency (AHPRA). The primary purpose of the National Law is to protect the health and safety of the public. AHPRA also has a role in facilitating the mobility of registered health practitioners and ensuring the policy direction of healthcare regulation is consistent with the emerging healthcare needs of the Australian population are ancillary purposes.

Each regulated profession has a national board for its clinical discipline. The Osteopathy Board of Australia (OBA) is the national board for osteopathy and effectively replaces the State and Territory registration boards that preceded the National Law.

The OBA's registration standards, codes and guidelines have direct bearing on osteopathy practice and it is therefore important to ensure you are aware of and understand your obligations under these documents. Any breach of standards, codes or guidelines could result in a notification or complaint, being called before a tribunal or even deregistration.

The functions of the OBA include:

- registering osteopaths and students
- developing standards, codes and guidelines for the osteopathy profession
- handling notifications, complaints, investigations and disciplinary hearings □ registering overseas trained practitioners who wish to practise in Australia □ approving accreditation standards and accredited courses of study.

The functions of the OBA are supported by the Australian Health Practitioner Regulation Agency (AHPRA) (www.ahpra.gov.au) Further information about legislation governing the Board's operations is available from www.ahpra.gov.au/Publications.aspx

4.2 Australasian Osteopathic Accreditation Council [AOAC]

www.osteopathiccouncil.org.au

General enquiries admin@osteopathiccouncil.org.au

Qualifications and Skills Assessment enquiries gsa@osteopathiccouncil.org.au

The Australasian Osteopathic Accreditation Council (AOAC) is an independent organisation to assess and accredit osteopathic education programs leading to eligibility for registration as an osteopath in Australia, and to assess the suitability of overseas qualified osteopaths to practice in Australia.

The Australasian Osteopathic Accreditation Council (AOAC) carries out assessments of the skills and qualifications held by overseas trained osteopaths.

AOAC does not:

- Register osteopaths. This is a function of the [Osteopathy Board of Australia](#)
- Employ osteopaths in Australia
- Advise on visa or immigration matters
- Process applications for osteopathy training in Australia or New Zealand
- Provide continuing professional development courses

4.3 Osteopathic Council of New South Wales

<http://www.hpca.nsw.gov.au/Osteopaths-Council/Home/Home/default.aspx>

The Osteopathic Council of New South Wales is a statutory body whose role is to manage notifications (complaints) about the conduct, performance and health matters concerning registered osteopaths practicing in New South Wales and health and conduct matters related to registered students training in New South Wales.

4.4 Osteopathy Australia [OA]

www.osteopathy.org.au

Osteopathy Australia is the peak professional body for osteopaths in Australia and provides promotion and advocacy for osteopathic healthcare, continuing professional development and negotiated arrangements for professional indemnity insurance cover.

4.5 Chiropractic and Osteopathic College of Australasia [COCA]

www.coca.com.au

The Chiropractic and Osteopathic College of Australasia is a non-profit, member-based organisation established to provide and foster quality vocational and educational services for chiropractors, osteopaths and related health professionals.

5.0 Standards for Registration as an Osteopath in Australia

On 1 July 2010, National Registration was introduced for Osteopathy.
Contact the Osteopathy Board of Australia (OBA)

Website: www.osteopathyboard.gov.au

Phone: 1300 419 495 (AHPRA)

Online enquiry: www.ahpra.gov.au/About-AHPRA/Contact-Us/Make-an-Enquiry.aspx

Postal address:

Chair, Osteopathy Board of Australia
GPO Box 9958
Melbourne VIC 3001

5.1 Registration Standards

Registration standards define the requirements that applicants, registrants or students need to meet to be registered. The OBA has developed the following registration standards that can be accessed at www.osteopathyboard.gov.au:

- Osteopathy Continuing Professional Development Registration Standard
- Osteopathy Criminal History Registration Standard
- Osteopathy English Language Skills Registration Standard
- Osteopathy Professional Indemnity Insurance Registration Standard
- Osteopathy Recency of Practice Registration Standard

5.2 Codes, Guidelines and Policies

The Osteopathy Board of Australia has developed codes and guidelines to provide guidance to the profession. These also clarify the Board's views and expectations on a range of issues. These are available from <http://www.osteopathyboard.gov.au/CodesGuidelines.aspx> and include:

- Social media policy (effective from 17 March 2014)
- Code of conduct (effective from 17 March 2014)
- Guidelines for advertising regulated health services (effective from 17 March 2014)
- Guidelines for mandatory notifications (effective from 17 March 2014)
- Osteopathy continuing professional development guidelines
- Osteopathy guidelines for clinical records
- Osteopathy guidelines for informed consent
- Osteopathy guidelines for sexual and professional boundaries
- Osteopathy guidelines for infection control

The Osteopathy Council of New South Wales has also published a guideline on the Examination and treatment of genitalia, internal techniques and sensitive areas that can be found at <http://www.hpca.nsw.gov.au/Osteopathy-Council/Publications-and-Policies/RecentPublications/default.aspx>

5.3 Use of the title "Dr"

There is no provision in the National Law that prohibits a practitioner who is not a registered medical practitioner from using titles such as "doctor" but there is potential to mislead or deceive if the title is not applied clearly. If practitioners choose to adopt the title "Dr" in their advertising, then (whether or not they hold a Doctorate degree or PhD) they should clearly state their profession whenever the title is used, e.g. Dr David Smythe (Osteopath).

5.4 Continuing Professional development [CPD]

Refer to **Continuing Professional Development Guidelines** on the OBA website:

<http://www.osteopathyboard.gov.au/Codes-Guidelines.aspx>

A summary of the information in the above codes is provided below but it is recommended that you check the current guidelines to account for updates.

CPD is a mandatory requirement of your registration.

The OBA has advised that CPD should be relevant to the osteopath's area of professional practice and have clear learning aims and objectives that meet his or her requirements. CPD

activities should also have a focus on the clinical aspects of practice including diagnosis, treatment and management, according to best practice standards and safety of patients or clients.

The OBA CPD is a reflective practitioner model. Osteopaths are required to identify their learning needs related to the practice of Osteopathy, identify means of meeting them and reflect on the outcomes and how these have been applied to practice. There are many providers of osteopathy CPD and osteopaths should investigate their own sources.

The Board requires the following CPD activities:

1. a minimum of 25 hours of CPD in each annual registration period (1 December to 30 November), including four hours of mandatory topics approved by the Board, as well as
2. a nationally-recognised course in first aid, resulting in the maintenance of a current first aid certificate which is at least a senior first aid (level 2) certificate or equivalent and updated every three years.

First aid is a stand-alone requirement that does not count towards the 25 hours requirement.

When you renew your registration you are asked to make declarations about your CPD activities for the period from 1 December to 30 November of your current registration year.

When applying for general registration for the first time (initial registration) or for provisional registration, you are asked to make a declaration about your CPD activities in the preceding 12 months (not the current registration period).

In each 12 month CPD cycle, you must complete the following mandatory activity, which is to undertake at least four hours' CPD on one or more of the following topics:

- Osteopathy Board of Australia registration standards, codes and guidelines and overview of the National Law, particularly when new or updated versions are published
- Advertising a regulated health service and social medial policy
- Evidence based practice
- Risk management
- Informed consent
- Effective communication
- Record keeping
- Professional boundaries
- Confidentiality and privacy

The Board expects you to cover different mandatory topics from year to year. The Board may refresh the list of topics through a fact sheet or revised CPD guidelines, giving sufficient notice for practitioners and providers of CPD activities to accommodate new topics.

All CPD should be relevant to your professional work as an osteopath. The responsibility to choose CPD that is beneficial to your practice lies with you. Use your professional judgement to decide what is appropriate. The Board may audit your compliance with the CPD registration standard to ensure you meet those requirements.

To this end, you are encouraged to spend some time identifying your own aims and objectives for CPD. You may wish to address areas of relative weakness in your professional work as an osteopath, or

enhance existing skills, pursue career goals or professional interests.

You may find it useful to focus on issues which are commonly the subject of notifications or complaints made to the board about osteopaths, such as informed consent, record keeping and communication.

The CPD guidelines allow flexibility to choose from a wide range of CPD activities, but it is important that these are suited to your needs.

Keeping track of your CPD

Evidence of CPD includes:

- a record of completed CPD issued by a provider
- a professional portfolio of self-directed CPD that has been done.

You must maintain an up-to-date portfolio of completed CPD activities that meet the standard – a professional CPD record folder – and keep the portfolio for five years. This is so you have evidence of previous CPD activities if you are audited, or if the Board needs to check your CPD record for other reasons.

Under Review

6.0 Setting up practice in Australia

The first consideration is where you wish to work. There is a range of possibilities such as working from home, renting a room - perhaps sharing expenses with others, leasing premises or even purchasing an existing practice.

The following table sets out the main considerations in preparing yourself for independent practice in Australia.

6.1 Steps to establishing an Osteopathic Practice

1	Apply for Registration as an Osteopath	Compulsory <i>Application and registration fees apply.</i>	www.osteopathyboard.gov.au 1300 419 495 (AHPRA)
2	Organise professional indemnity Insurance	Compulsory <i>\$20M cover required</i>	Various providers.
3	Apply for Provider number(s)	Compulsory <i>A provider number is provided for free and is needed for each place of practice and is required for access to the Medicare rebate scheme and external agencies</i>	Medicare Australia/Health Insurance Commission www.medicareaustralia.gov.au 132 150 <i>Look for information ‘for health professionals’ or ‘allied health providers’</i>
4	Apply for TFN [Tax File Number]	Compulsory	www.ato.gov.au

5	Working with children check	<p>In some States if you are a registered health professional you are exempt. However, some employers or clients may request one before seeking treatment.</p> <p><i>Please contact the relevant agency in your State (see below).</i></p>	See list of websites below
6	Apply for ABN [Australian Business Number]	<i>Depending on individual circumstances. Consult your tax adviser. Online applications available.</i>	www.ato.gov.au/businesses/
7	Arrange insurance cover	<p>Required Professional Indemnity</p> <p>Optional Public Liability Income Protection</p>	Various providers
8	Register for GST [Goods and Services Tax]	<i>Depending on individual circumstances and if you earn/turnover more than \$75,000. Consult your tax adviser.</i>	www.ato.gov.au

6.2 Provider numbers

It is necessary to register with Medicare Australia (phone: 13 21 50) free of charge to be recognised as a provider of Osteopathic services. A provider number enables your patients to claim rebates for certain services, such as specific diagnostic imaging (see below) and treatment under the Allied Health Initiative. Medicare issued provider numbers are also used by external agencies, such as private health care providers, DVA and worker's compensation authorities.

Download an application form for Allied Health Professionals from www.medicareaustralia.gov.au.

A different Provider Number is required for each practice address.

PLEASE NOTE: It is against the law to use a provider number of another osteopath for services that they did not render.

Breaching this condition can have serious consequences for practitioners.

6.3 Locums of up to 2 weeks

Practitioners who provide services at a location for less than two weeks as a locum, **and do not expect to return to that location on a regular basis**, are able to use their existing provider number from **another location**, but not the number of another provider. Provider number enquiries should be directed to Medicare on 132 150 or www.medicareaustralia.gov.au.

6.4 HICAPS

HICAPS stands for Health Industry Claims and Payments Service. Most health funds participate in this system. It allows patients to swipe their health fund card in the practice's EFTPOS (direct debit) machine and then forwards the rebate payment to the nominated bank account. Where less than the full cost of treatment is covered by the private health fund the EFTPOS terminal then generates the balance owing, known as a "gap payment" which the patient may pay by credit/debit card or cash. HICAPS integrates with most practice management software.

As well as a Medicare Provider Number for each practice location practitioners must register with HICAPS at each location they practice. Details for registration can be found on the HICAPS website www.hicaps.com.au.

Code numbers for various services rendered and the information that must be provided for the patient to claim a refund can also be obtained from the HICAPS website.

If you are working in a practice that is not your own practice it is likely that you will not be overseeing the registration and operation of HICAPS **but you are accountable for all transactions generated on your behalf**.

6.5 Government regulations for setting up a business

There are many government schemes that offer advice and services for establishing businesses. These schemes vary from State to State and can be found on government websites: search for 'business'.

If the business structure you have chosen is as a sole trader, a partnership or a trust, and not as a company, then you are required to register your business name in the State or Territory in which you will operate. You don't need to register a business name if you plan to conduct your business under your or your partner's, first name and surname.

If you are planning to set up your business in more than one State, you need to register your business name separately in each State. For details of requirements and regulations relating to registering a business see www.business.gov.au.

There are four common types of business structure from which to choose: sole trader, partnership, company, trading trust. You should seek advice from an accountant, legal practitioner or person who specializes in corporate structures to determine which is suitable for you and the requirements attaching to each.

6.6 Locums and Practice Associates

It is good business practice to use a formal written contract for locum and associate positions. In this way both parties' interests are protected and this helps to prevent any later dispute.

It is important to clarify whether you are an employee or an independent self-employed practitioner, as these situations differ considerably in terms of ultimate responsibility and taxation.

Most Osteopathic practices operate on the basis that the locum or associate does not become an employee; but remains an independent contractor where the principal practitioner takes a percentage of the associate's earnings. Income tax rulings on these relationships can be complex and you should discuss your situation with your tax adviser.

6.7 Goods and Services Tax

The Australian Tax Office (ATO) has a Guide for Small Business available at www.ato.gov.au, which describes in detail the Australian system of Goods and Services Tax (GST), which is currently set at 10% of the charge for the goods, or service.

While health services delivered to patients or clients do not attract a goods and services tax some aspects of your practice will require that GST be paid or collected. In general terms, if any osteopath provides a service to any other osteopath the service fee attracts a GST.

Practitioners are strongly recommended to consult a chartered accountant or other financial professional for advice concerning the treatment of GST with regard to contracts between locums or associates.

Where the individual earns less than \$75,000 per annum they may not have to register for GST but cannot claim input tax credits. See Australian Taxation Office legislation for further information. www.ato.gov.au.

7.0 Insurance

7.1 Professional Indemnity Insurance Cover

The Osteopathy Board requires that registered osteopaths have a minimum of \$20 million professional indemnity insurance cover. You must notify your Insurance Company immediately if anything occurs which has the potential to result in a claim against you.

7.2 Additional Insurance Cover

In addition to compulsory Professional Indemnity Insurance required for all registered osteopaths the following types of insurance should also be considered.

Employees Liability (WorkCover): a mandatory levy is paid to the Government to cover your liability to your employees should they be injured whilst working.

Loss of Gross Profit: Provides cover if business is interrupted through damage to property by fire or other insured perils. It is also called "Consequential Loss" or "Business Interruption" insurance and can only be taken in conjunction with the ordinary fire policy.

Personal Accident and Illness: if you are self-employed WorkCover does not cover you. Insurance for loss of income is available from many insurance companies.

General Income Protection: The purpose of general income protection is to provide cover if you cannot work due to incapacity caused by illness or injury, resulting in a loss of earnings.

7.3 Working with children checks

State	Organisation	Website
ACT	Australian Federal Police	www.gov.au/what-we-do/policechecks.aspx
New South Wales	Working with Children Check	http://www.kids.nsw.gov.au/Working-withchildren/New-Working-With-ChildrenCheck/New-Working-with-Children-Check
Northern Territory	Northern Territory Police	www.pfes.nt.gov.au
Queensland	Commission for Children and Young People and Child Guardian	www.ccypcg.qld.gov.au/index.aspx
South Australia	South Australia Police	www.police.sa.gov.au
Tasmania	Commissioner for Children	www.childcomm.tas.gov.au
Victoria	Department of Justice	www.justice.vic.gov.au/workingwithchildren
Western Australia	Department of Child Protection	www.checkwwc.wa.gov.au/checkwwc

8.0 Medico-legal considerations

The incidence of disputed liability and compensation claims being heard before the courts is increasing. The incidence of common law claims against health professions is also on the increase.

In Australia, there are both Federal laws covering everyone and local laws covering individuals and organisations in a State or Territory. Some State or Territory laws cover areas where there is no Federal law. In other situations, State or Territory laws are consistent with Federal law. If there is an inconsistency between Federal and State or Territory laws, then, to the extent of that inconsistency, the Federal law will prevail. You are advised to familiarise yourself with relevant Federal and State or Territory laws that impact on your practice.

It is beyond the scope of this publication to discuss in more depth the legal responsibilities in the practice of osteopathy and **you are advised to familiarise yourself with the National Law and all its Registration Standards, Codes and Guidelines.**

www.osteopathyboard.gov.au.

<http://www.osteopathyboard.gov.au/Codes-Guidelines.aspx>

8.1 Record Keeping

Refer to the Clinical Records Guidelines on the OBA Codes and Guidelines page.

You need to protect yourself by keeping accurate records, as good records are beneficial to a good defence. If an Osteopath receives a subpoena, both the Osteopath and the file of the patient concerned may be required to be produced in court. These records need to be both accurate and contemporaneous. Any alteration to the record should be clearly made and signed and dated.

Different states have different legislation regarding the minimum timeframes for keeping medical records. In NSW, Vic and ACT there is a requirement that clinical records are kept for seven years following consultation for an adult patient. For anyone under the age of 18 at the time of consultation, the notes must be kept until that person is 25 years of age. These are solid minimum guidelines for practice in any area but it is recommended that you check for any state specific variations to these guidelines.

8.2 Informed Consent

Refer to the **Guidelines for Informed Consent** on the OBA Codes and Guidelines page.

There must be a valid consent by the patient for all physical intrusions by the osteopath. Where the patient themselves has limited or impaired capacity to understand, there are complex legal regimes in place in different States and territories that may enable a third party to provide a valid consent on the patient's behalf.

In addition, an osteopath has a legal duty to provide the patient with relevant information concerning their condition and proposed treatment to enable the patient to make an informed choice.

A written consent form does not necessarily constitute informed consent. The use of written consent forms may be useful to guide the osteopath and patient through some basic concepts and assist in fulfillment of the osteopath's duty to provide the patient with relevant information regarding their condition and the proposed treatment. However, consent is a dynamic and ongoing process that is highly dependent on the quality of communication between the parties on each occasion and the quality of and amount of information to be

provided will vary according to that nature of the patient's injuries and specific treatment proposed.

The nature of the consent process will also vary according to the particular patient in question, their needs and capacity to understand. General statements in the consent form cannot cover all aspects of examination and treatment. Documentation in the patient's notes of discussions relating to consent and the provision of relevant information is important.

The issue of what constitutes a valid consent and what amounts to the fulfillment of the osteopaths' duty to provide the patient with relevant information is complex and beyond the scope of this document. Refer to page 10 for relevant Codes, Guidelines and Policies published by the Osteopathy Board of Australia and the Osteopathic Council of New South Wales.

8.3 Working with Children and Patients with special needs

Refer to the Osteopathy Code of Conduct on the OBA Codes and Guidelines page.

Caring for children, young people and patients with additional needs or impaired decision making capacity brings additional responsibilities for practitioners. Special legal regimes are in place in most States and territories governing the complex area governing substitute decision making for patients with impaired capacity. Guidelines for good practice are provided in the Osteopathy Code of Conduct on the OBA website.

8.4 Privacy Legislation

There exists a complex regime governing the protection of personal, sensitive and health information, including the Privacy Act 1988 (Cth) and the National Privacy Principles. In addition, various States and Territories have specific State and Territory privacy related legislation and privacy principles, imposing similar but additional obligations.

As a general rule, the Privacy Act and National Privacy Principles must be adhered to.

Visit Privacy law <https://www.oaic.gov.au/privacy-law/> or <https://www.oaic.gov.au/engage-with-us/consultations/health-privacy-guidance/business-resource-handling-health-information-under-the-privacy-act-a-general-overview-for-health-service-providers> for more information, noting that distinctions are made between the private and public health sector. An overview of privacy legislation for the private health sector is available as a pdf document from <https://www.oaic.gov.au/individuals/faqs-for-individuals/health/access-to-health-information-in-the-private-health-sector>.

It covers details relating to:

- The requirements governing the collection of information, in particular, the need to gain consent for collection of personal, sensitive and health information
- Obligations relating to the storage of information and its destruction
- What to tell individuals when information is collected
- Circumstances in which a health provider is authorised to share information or pass on information to another person
- The requirements for a health service provider to have a Privacy Policy and the contents thereof
- Providing individuals with a right to access their health records
- The 10 National Privacy Principles (NPPs) and other relevant State and Territory

privacy principles that represent the minimum privacy standards for handling personal information.

The document aims to assist the private health sector in better understanding the application of the National Privacy Principles to its business and services. The document is supported by Information Sheets on the application of the Privacy Act in a number of other areas. These are available online at www.privacy.gov.au. Additional resources are available on the various State and Territory privacy commissioner and health complaint entities websites

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governing the relevant principles applicable in that State or Territory. Health service providers are also advised to refer to information and advice on privacy from their respective professional bodies. The AOA has a free module on Privacy for its members.

8.5 Scope of Practice

Osteopaths provide services across the lifespan for a wide range of conditions, with most patients presenting with neuromusculoskeletal conditions. Osteopathy incorporates a patient centered approach considering biological, psychological and environmental aspects in diagnosis and management. As pain is the most common complaint presenting, osteopathic practice incorporates a comprehensive understanding of pain and its management.

Osteopaths seek to prevent injury/restore and promote health through the application of osteopathic manipulative technique (OMT), exercise based rehabilitation programs, and health education interventions including nutritional advice. The range of interventions provided by individual osteopaths varies such that services are only delivered when they are competent to do so.

As part of the primary care team it is explicit that osteopaths understand the wider healthcare environment and the role of the primary care practitioner within the healthcare system. Osteopaths facilitate access to appropriate health care services via patient education, liaison and referral, which should always comply with consent requirements and be based upon clinical need.

In Australia, a patient's general practitioner (normally called their GP or family doctor) is generally the first point of contact and coordinator for the management of the majority of health concerns. Patients usually access specialist medical services including pathology, imaging and consultations with specialists via referral from their general practitioner. The general practitioner also plays an important role in maintaining information about the patient's health and health care. Consequently, it is important that an osteopath keeps the patient's general practitioner informed about their health care.

Osteopaths are able to refer directly with other allied health professionals however it is important that the pivotal role of the patient's general practitioner is respected and that the general practitioner is kept informed.

If an osteopath considers the patient's care requires medical review, then the usual course of action is to recommend a consultation with a general practitioner of their choosing unless the concern is a medical emergency in which case the osteopath should recommend the patient attend an emergency department (casualty) promptly or call the ambulance service. To arrange a referral to the general practitioner, the osteopath should discuss their concerns and proposed plan with the patient, and gain both their agreement and consent to write to their general practitioner.

The letter of referral should outline any clinical data, which underpins the reason/s for referral including information about any treatment provided and response to date.

Useful resources about the scope of practice can be found at:

Statement of Scope of Practice in Osteopathy

<http://www.osteopathy.org.au/pages/policy-statement-scope-of-practice-243.html>

Capabilities for Osteopathic Practice

http://www.osteopathiccouncil.org.au/files/Capabilities_for_Osteopathic_Practice_2009.pdf

Core Curriculum for Professional Education in Pain (3rd Edition) published by the International Association for the Study of Pain

http://www.iasppain.org/AM/Template.cfm?Section=IASP_Press_Books2&Template=/CM/HTMLDisplay.cfm&ContentID=10731

Evidence Based Management of Acute Musculoskeletal Pain published by The Australian National Health and Medical Research Council

http://www.nhmrc.gov.au/files_nhmrc/publications/attachments/cp94.pdf

8.6 Prescribing

It is important to note that osteopaths do not currently have prescribing rights in Australia. Osteopaths should ensure that they have the relevant training and knowledge of any supplement, product or over the counter (OTC) medication they recommend to patients and engage in a full discussion with the patient regarding the benefits and risks associated with such product. In all cases, osteopaths should be aware of other medications and supplements the patient is taking and the potential for any adverse interactions that may occur.

8.7 Diagnostic imaging referral

Osteopaths can refer for plain film spinal and pelvis radiographs and are entitled to claim a rebate from Medicare. Medicare benefits are not payable for diagnostic imaging services that are classified as R-type (requested) services unless prior to commencing the relevant service, the practitioner receives a signed and dated request from a requesting practitioner who determined that the service was necessary. Under the Medicare Benefits Schedule, osteopaths are permitted to request a limited range of diagnostic imaging services. For a description of those services and the applicable regulations, refer to

<http://www9.health.gov.au/mbs/search.cfm>

If a patient is willing to pay in full for the diagnostic imaging without obtaining a Medicare rebate, an osteopath in Australia may refer for plain film x-rays, ultrasound and MRI imaging. Based on clinical need, the radiologist will determine if the referral is accepted.

8.8 Mental health

All Australian primary contact health professionals (including osteopaths) are required to assist patients with mental health problems gain access to appropriate services. Osteopaths are, therefore, required to demonstrate competence in relation to mental health promotion, early detection of risk factors for, and responsiveness to mental health problems. They must also be able to facilitate access to appropriate services.

Australia has a comprehensive range of mental health services and programs. While osteopaths do not have a specific role in provision of mental health services they should familiarise themselves with the services available.

8.9 Professional Conduct and Complaints/Notifications

The professional conduct of health practitioners and students is guided by the 'Codes and Guidelines' and 'Registration Standards' of their relevant health profession except in New

South Wales (NSW) where notifications and complaints about osteopaths are handled by the Osteopathy Council of New South Wales. See www.osteopathyboard.gov.au and <http://www.hpca.nsw.gov.au/Osteopaths-Council/Home/Home/default.aspx>.

Any person can [notify AHPRA](#) of concerns relating to the conduct of a registered health practitioner or student.

When a conduct-related notification is received by AHPRA, the relevant National Board, to ensure appropriate action is taken, if required, to protect the public, may investigate the health practitioner or student. Activities considered as breaches of professional [conduct](#) are categorised as unprofessional conduct, professional misconduct and notifiable conduct. <http://www.osteopathyboard.gov.au/Codes-Guidelines/Code-of-conduct.aspx>

8.10 Unprofessional Conduct

Unprofessional conduct includes:

- breach of the [National Law](#)
- breach of a registration condition or undertaking
- conviction for an offence that may affect suitability to continue practice
- providing health services that are excessive, unnecessary or not reasonably required
- influencing, or attempting to influence, the conduct of another registered health practitioner that may compromise patient care
- accepting a benefit as inducement, consideration or reward, for referrals or recommendations to use a health service provider
- offering or giving a person a benefit, consideration or reward, in return for providing referrals or recommendations to use a health service provider
- referring a person to, or recommending another health service provider, health service or health product, if there is a financial interest, unless the interest is disclosed

8.11 Professional Misconduct

Professional misconduct includes:

- conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience
- more than one instance of unprofessional conduct
- conduct that is not consistent with being a fit and proper person to hold registration in the profession

8.12 Notifiable Conduct

Practitioners, employers and education providers are all mandated by law to report certain [notifiable conduct](#) relating to a practitioner or student. Registered practitioners who fail to report notifiable conduct may face disciplinary action by their National Board. Such conduct includes:

- intoxication by alcohol or drugs while practising or training in the profession
- engagement in sexual misconduct in connection with the practice or training of the profession

- an impairment that places the public at risk of substantial harm
- a significant departure from accepted professional standards that places the public at risk of harm

8.13 Practitioner Health

Practitioners are [health](#) impaired if they have a physical or mental impairment, disability; condition or disorders that detrimentally affects, or is likely to detrimentally affect their capacity to practise their profession.

8.14 Practitioner Performance

The professional [performance](#) of a registered practitioner is defined to be unsatisfactory if it is below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

8.15 Notifications (includes Complaints)

Members of the public can [make a notification](#) to AHPRA about the conduct, health and performance of a practitioner or student. Complaints may also be made to the various State and Territory health complaint entities where they exist.

Practitioners, employers and education providers are all mandated by law to report:

- [notifiable conduct](#) relating to a practitioner or
- in the case of a student, an impairment that may place the public at substantial risk of harm.
- Registered practitioners and students who fail to report notifiable conduct may face disciplinary action by their National Board.

AHPRA [works with the Health Complaints Entities](#) in each State and Territory to make sure the appropriate organisation investigates community concerns about registered health practitioners. <http://www.osteopathyboard.gov.au/Codes-Guidelines/Code-of-conduct.aspx>. The Health Complaints Entity for each State or Territory are listed below.

ACT

[ACT Human Rights Commission](#)

New South Wales

[Health Care Complaints Commission](#)

Northern Territory

[Health and Community Services Complaints Commission \(HCSCC\)](#)

Queensland

[Health Quality and Complaints Commission \(HQCC\)](#)

South Australia

[Health and Community Services Complaints Commissioner \(HCSCC\)](#)

Tasmania

[Health Complaints Commissioner](#)

Victoria

[Office of The Health Services Commissioner](#)

9.0 Relevant Agencies and Legislation

9.1 Workers' Compensation schemes

Osteopaths can register with the various workers' compensations schemes (such as WorkCover NSW or Worksafe in Victoria) to provide treatment to injured workers with a focus on the worker's safe return to work.

Osteopaths making an application for approval to provide treatment may be required to attend a training program and must follow administrative procedures. Requirements and conditions vary in each State. You may attract a lower payment for your services if you have not successfully completed this training program.

Visit your State website (see below) for information. Undertaking work under these schemes requires practitioners to comply with the funder's terms and conditions. The focus of treatment is rehabilitative, the aim being return to work/prevention of work disability. There will be clinical/management guidelines you are required to apply and there may be training/CPD activities provided at no or low cost to support this area of your practice.

PLEASE NOTE: that the legislation and contract conditions may not permit providers to charge a gap payment to the patient where the contract rate is less than the practice's charges, so check each State scheme carefully.

State	Web Address
ACT	www.worksafe.act.gov.au
NSW	www.workcover.nsw.gov.au
NT	www.worksafe.nt.gov.au
QLD	www.qcomp.com.au (Insurer – need to register) www.workcoverqld.com.au (Regulatory Authority set fees)
SA	www.workcover.com
TAS	www.workcover.tas.gov.au
VIC	www.worksafe.vic.gov.au
WA	www.workcover.wa.gov.au

9.2 Transport Accident Commission (TAC) and Motor Accidents Authority

These schemes can fund the reasonable cost of osteopathic treatment for injuries sustained by a client in a transport accident. Conditions apply and vary in each State. Osteopathic

treatments are paid in accordance with a schedule of fees. You will need to familiarise yourself with the scheme in your State. There will be clinical/management guidelines you are required to apply and there may be training/CPD activities provided at no or low cost to support this area of your practice. Please note that the legislation and contract conditions do not permit providers to charge a gap payment to the patient where the contract rate is less than the practice's charges.

State	Web Address	Authority Name
ACT	www.treasury.act.gov.au/compulsorytpi/index.shtml	Department of Treasury
NSW	www.maa.nsw.gov.au	Motor Accidents Authority
NT	www.tiofi.com.au	Territory Insurance Office
QLD	www.maic.qld.gov.au	Motor Accident Insurance Commission
SA	www.mac.sa.gov.au	Motor Accidents Commission
TAS	www.maib.tas.gov.au	Motor Accident Insurance Board
VIC	www.tac.vic.gov.au	Transport Accident Commission
WA	www.icwa.wa.gov.au	Insurance Commission of WA

9.3 Department of Veterans' Affairs (DVA)

The DVA funds osteopathic treatment of eligible current and former members of the Australian Defence Forces and their families.

As an osteopath registered for a provider number with Medicare Australia, you are automatically registered to provide services for the DVA to patients referred to you by a General Practitioner.

For more information visit www.dva.gov.au.

Please note that the legislation and contract conditions do not permit providers to charge a gap payment to the patient where the contract rate is less than the practice's charges.

9.4 Medicare Allied Health Initiative

The Medicare allied health initiative allows chronically ill people who are being managed by their general practitioner (GP) under a Chronic Disease Management (CDM) plan access Medicare to rebates for osteopathic services. This is limited to 5 services per calendar year for eligible patients.

For more information see

<http://www.medicareaustralia.gov.au/provider/business/education/quick-reference-guides.jsp>

Check practice requirements and confirm how many services have already been claimed by the patient on 132 150.

9.5 Interpreting services

Good osteopathy practice involves genuine efforts to understand the cultural needs and contexts of different patients or clients to achieve good health outcomes. The Code of Conduct provides guidance on culturally safe and sensitive practice.

Refer to the Osteopathy Code of Conduct on the OBA website

Australia's multi-cultural population requires cultural sensitivity and a preparedness to work, where necessary, with interpreter services. Your local and State Health services can provide advice on interpreter services. A useful resource is

http://www.healthdirectory.com.au/Health_industry_resources/Interpreters/search

The Department of Immigration and Citizenship also provides a national interpreting service called TIS National for people who do not speak English and for the English speakers who need to communicate with them. TIS National has more than 30 years of experience in the interpreting industry, and has access to over 1900 contracted interpreters across Australia, speaking more than 170 languages and dialects. TIS National is available 24 hours a day, seven days a week for any person or organisation in Australia requiring interpreting services.

It provides immediate telephone interpreting services, as well as pre-booked telephone and on-site interpreting.

http://www.immi.gov.au/living-in-australia/help-with-english/help_with_translating/abouttis.htm

9.6 Mandatory reporting of child abuse

The legal requirement to report suspected cases of child abuse and neglect is known as mandatory reporting. All jurisdictions possess mandatory reporting requirements of some description. However, the people mandated to report and the abuse types for which it is mandatory to report vary across Australian States and territories.

Practitioners can also seek the prior advice of their professional indemnity provider.

Details can be found on: <http://www.aifs.gov.au/cfca/pubs/factsheets/a141787/index.html>.