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## Chair's message

### Audit and compliance

The Osteopathy Board of Australia (the Board) will soon audit a number of osteopaths as part of our work to protect the public. At renewal of your registration each year you have to declare your compliance with the Board's mandatory registration standards. A random sample of practitioners will soon be selected and they will receive an audit notice in the mail from the Australian Health Practitioner Regulation Agency (AHPRA). The email includes a checklist that outlines what supporting documentation is required to demonstrate that you meet the standard(s) being audited.

Any osteopath who is found to have made a false declaration can expect the Board to take action against their registration. This newsletter will focus on compliance with the registration standards, preparing for audit and what can happen if you are found to be non-compliant. It adds to the information we provided last year in the April 2016 newsletter.

We draw your attention to the criminal history registration standard. Please err on the side of caution and notify us of any changes to your criminal history at renewal; or notify within seven days if a charge is punishable by 12 months or more imprisonment.

We also focus on the continuing professional development (CPD) registration standard; in particular maintaining a current senior first aid certificate, and explain about the four hours of mandatory topics per year.

Recency of practice (RoP) is audited this year and we show you how to get your evidence ready for this or future years, as a past three-year period is audited.

We must stress that the vast majority of practitioners are found to be compliant at audit, and we are providing this information to help you also achieve this. Most important is the requirement that practitioners declare honestly at renewal about their compliance with the Board's registration standards.

We also explain how complaints and non-compliance at renewal or audit are dealt with under the co-regulatory models in New South Wales and Queensland.

I am pleased to announce that Pam Dennis, practitioner member from Tasmania, was recently reappointed for a further three years by the Australian Health Workforce Ministerial Council.

**Dr Nikole Grbin (osteopath)**

Chair, Osteopathy Board of Australia

## Osteopathy Board news

### Compliance with registration standards

You must strictly comply with the four mandatory registration standards and honestly declare if you are not compliant. These standards include criminal history, professional indemnity insurance arrangements (PII), CPD and RoP. Making misleading or false declarations upon initial or renewal applications is a very serious matter and may result in disciplinary action and/or affect your ability to be registered.

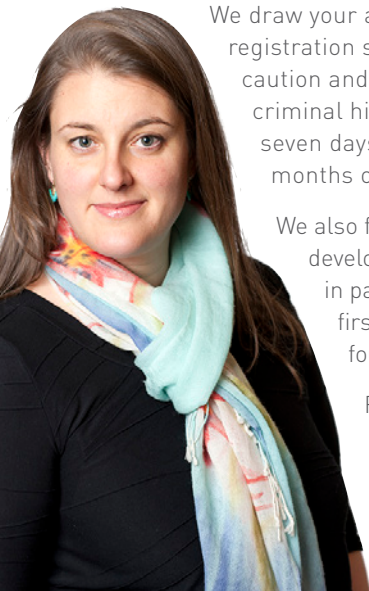
### CPD and first aid

The CPD registration standard requires all practising osteopaths to complete at least 25 hours of CPD per annual registration period from 1 December until 30 November each year. All practitioners must hold a current Senior First Aid (Level 2) certificate or equivalent.

This course has changed name and code from time to time, and the Board does not specify unit name or code in its registration standard, but says 'or equivalent'. It has had various name changes by providers, including 'Apply First Aid' and is currently called 'Provide First Aid'. It is usually a minimum of one full day of training and you must refresh your training every three years to comply with the Board's CPD registration standard. If you are selected for audit you will be required to submit evidence of your certification to cover the audit period.

### CPD and mandatory topics

As a result of common themes in the concerns/notifications received by the Board over a number of years, the Board requires that at least **four hours** in each 12-month CPD cycle must include CPD on one or more of the following topics:



- Osteopathy Board of Australia registration standards, codes and guidelines and overview of the National Law<sup>1</sup>, particularly when new or updated versions are published
- advertising a regulated health service and social media policy
- evidence-based practice
- risk management
- record keeping
- informed consent
- effective communication
- professional boundaries, and
- confidentiality and privacy.

All these topics are important and the Board expects you to cover different mandatory topics from year to year. The list of topics was updated in the revised guidelines, effective from 1 December 2015, and **four hours of CPD each year** should reflect these topics.

For example, advertising complaints have significantly increased and compliance with advertising is an important topic to familiarise yourself with at the moment; and the Board has produced advertising bulletins and newsletters to point you to further material to consider. There has also been a webinar on CPD audit and PII in the past year which is available on the [Board's website](#).

Other examples that appear in concerns/notifications are: poor or inadequate communication; lack of informed consent; lack of privacy; and poor record keeping. In some cases it can be the primary cause for a notification or it can be a secondary issue that becomes apparent during an investigation. Your CPD should include ongoing learning in all the listed topics on a rotating basis over a number of years.

You need to keep CPD documentation for five years. CPD is explained in the [registration standard and the guidelines](#).

### Recency of practice

The RoP registration standard requires all osteopaths who hold general registration to have practised for a minimum of 450 hours during the previous three registration periods. In addition, practitioners are required to maintain records as evidence of this practice for a minimum of five years. There are no exemptions to this standard.

The Board has recognised that many osteopaths are self-employed practitioners. The evidence required to demonstrate compliance with the RoP standard includes a robust curriculum vitae. A new 'Tips' document is available to provide further guidance for audit – see our [Audit page](#).

### Professional indemnity insurance

The revised PII arrangements registration standard is effective from 1 July 2016. Because both the previous and new registration standards were applicable to the annual

registration period, if selected for audit in 2017 you will be required to submit evidence to demonstrate your compliance with the new standard from 1 July 2016 and the previous standard from 1 December 2015 until 1 July 2016.

It is important to keep all evidence of formal interactions with insurers, such as payments, policies and disclosures, for five years, as the Board might require you to provide more detailed information about your compliance with the PII arrangements registration standard. For example, you should keep printed or online copies made at the time of disclosures or interactions with insurers, or you may need to keep concurrent policies relating to different workplaces.

You must retain all documentary evidence of PII insurance for five years even if you change your employment. You will need letters from a number of employers if you were covered by different employers' PII arrangements, for example if you worked at a university and private practice.

### Failure to notify of criminal charges punishable by 12 months' imprisonment or more

All registered osteopaths have obligations under the law to advise the Board of certain criminal history events within **seven days if you are charged with or convicted of certain offences** punishable by 12 months' imprisonment or more. This requirement exists in the law so that the Board has early notice of events that might require the Board to take action to ensure the public is protected, and the public have confidence in the profession.

A failure to advise the Board of these events can compound issues for a practitioner, so you must not wait until registration renewal time to inform the Board.

### Requirements

Section 130 of the National Law requires practitioners to advise the Board within seven days about a number of matters; the more common ones are if:

- the practitioner is charged, whether in a participating jurisdiction or elsewhere, with an offence punishable by 12 months' imprisonment or more
- the practitioner is convicted of or the subject of a finding of guilt for an offence, whether in a participating jurisdiction or elsewhere, punishable by imprisonment
- appropriate PII arrangements are no longer in place in relation to the practitioner's practice of the profession
- the practitioner's billing privileges are withdrawn or restricted under the *Medicare Australia Act 1973* of the Commonwealth because of the practitioner's conduct, professional performance or health, and/or
- the practitioner's registration under the law of another country that provides for the registration of health practitioners is suspended or cancelled or made subject to a condition or another restriction.

<sup>1</sup> The Health Practitioner Regulation National Law, as in force in each state and territory.

A notice of certain events form is available: [Notice of Certain Events](#). If you failed to notify the Board of these charges at the time but instead declared the charges several months later, then you have failed to comply with your obligations under the National Law.

Failure to comply with the requirements of the National Law is a serious matter that can become a ground for a notification about the practitioner as it is considered professional misconduct. There are a number of possible outcomes in such cases, ranging from cautions to the practitioner, or imposing conditions on the practitioner's registration right up to referral to a tribunal for disciplinary proceedings where the practitioner, among other things, may be suspended or have their registration cancelled.

The Board may also take immediate action to ensure the health and safety of the public while a matter is being investigated, which may result in temporary suspension or conditions upon the practice of a practitioner

Some of the things the Board has considered relevant in its management of cases like this have included:

- the extent to which the practitioner deliberately set out to mislead the Board
- the nature of the criminal charges themselves
- admissions of guilt and early cooperation in any investigation by the practitioner by the police or by the Board, and
- any risk this practitioner poses to the health and safety of the public or any concern that the allegation might cause the public to lose confidence in the profession.

Both the charge itself and the failure of a practitioner to inform the Board of the charge early could result in a finding that the practitioner is not a suitable person to hold registration in the profession.

If you are aware of another practitioner being charged or convicted, then you can make a notification about this to the Board/AHPRA. See the [Complaints or concerns page](#) for more details.

### New graduates' criminal history checks

All new graduates and overseas-trained osteopaths are checked for domestic and international criminal history when they first apply for registration in Australia. There may be a delay in the registration decision timeline where there is a mismatch between an applicant's disclosure and the criminal history report(s).

Applicants must declare every charge not just convictions, regardless of how long ago they occurred. This includes charges that may have been dismissed or from the children's court – convictions and spent convictions. Traffic offences are considered criminal offences in some jurisdictions and therefore practitioners must be aware of all charges or convictions regardless of their nature.

In making declarations of criminal history, the practitioner should include as much information as available. This includes dates, a summary of the charge/conviction and a statement of

the circumstances leading up to the offence.

When assessing the criminal history declaration, the Board will consider the nature and status of the offence and weigh up whether it has an impact on patient safety and suitability for registration. Initial and ongoing criminal history disclosure and checking is central to public safety. The good news is that very few practitioners have a criminal history that requires action by the Board. The not-so-good news is that some practitioners find themselves experiencing a delay or review due to their failure to fully disclose at the correct time.

### Incorrect or false declarations

Incorrect or false declarations on your new or renewal application are a very serious matter and may result in disciplinary action and/or affect your ability to be registered.

When a practitioner makes a false declaration when renewing, the Board may:

- decide whether or not to reject the application under Part 7 – section 74, 82(c)(ii) or 112 after a show cause process (section 81, 111), **and/or**
- decide whether or not to take disciplinary action under Part 8 of the National Law.

Where there has been a change to your criminal history in Australia or overseas since your last declaration you are required to declare this at renewal.

### Mandatory and voluntary notification requirements for students

An education provider is required under the National Law to notify AHPRA as a **mandatory** notification if they reasonably believe:

- a student enrolled in a program of study provided by the education provider has an impairment that, in the course of the student undertaking the clinical component as part of the program of study, may place the public at substantial risk of harm, or
- a student for whom an education provider has arranged clinical training has an impairment that, in the course of the student undertaking clinical training, may place the public at substantial risk of harm.

Any entity (person or organisation) may make a **voluntary** notification about a student to AHPRA when they believe that the student:

- has been charged with an offence, or has been convicted or found guilty of an offence, that is punishable by 12 months' imprisonment or more, or
- has, or may have, an impairment that they believe may harm the public, or
- has, or may have, contravened a condition of the student's registration or an undertaking given by the student to the National Board.

National Boards act on student health impairment matters or when there is a criminal conviction of a serious nature that may adversely affect public safety. However, the National Boards have no role to play in the academic progress or conduct of students.

### Co-regulatory models – complaints and regulatory action arising from audit

The different complaints arrangements are termed 'co-regulatory' for the New South Wales and Queensland jurisdictions, which use their own state or territory legislation for handling complaints. The outcomes are reported to the National Boards, particularly if AHPRA and the National Boards need to take action such as removing a practitioner's name from the national register or placing conditions on registration.

New South Wales has been a co-regulatory jurisdiction since the start of the National Registration and Accreditation Scheme (National Scheme) on 1 July 2010. The [Osteopathy Council of NSW](#) is the decision-making body for these complaints. Complaints about health practitioners and providers are handled by the [Health Care Complaints Commission](#) (HCCC) in partnership with the Health Professional Councils Authority (HPCA). The HPCA provides administrative support to 14 NSW health professional councils.

On 1 July 2014 Queensland became a co-regulatory jurisdiction, whereby all notifications (complaints) are received by the Queensland [Office of the Health Ombudsman](#) (OHO). The OHO is the single point of entry for all health service complaints in Queensland. The Health Ombudsman assesses all complaints to determine the most appropriate action for achieving a timely resolution. All complaints relating to registered health practitioners that the Health Ombudsman determines as serious are retained by the OHO for action, with less serious matters being referred to AHPRA and the National Boards for management.

### Request for quote for capabilities

The Board has published a [request for quote](#) seeking a consultant to amend the draft revised *Capabilities for osteopathic practice* document to address the feedback received in preliminary consultation prior to public consultation; and to finalise the document after public consultation. More information and key dates are in the *Request for quote* document.

The **extended** closing date for submissions is **12 June 2017, 5:00pm AEST**.

### National Scheme news

#### Responsible advertising of health services: Practitioners reminded about their legal obligations

Registered health practitioners are reminded to **check**, **correct** and **comply** with their professional and legal advertising obligations.

The National Boards and AHPRA have published a strategy for the National Scheme to help keep health service consumers safe from misleading advertising.

The *Advertising compliance and enforcement strategy for the National Scheme* 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.

Practitioners have a professional and legal obligation to advertise responsibly and support members of the community to make informed choices about their healthcare. The National Law limits how regulated health services<sup>2</sup> can be advertised.

When preparing advertising, you should always ensure that your advertising is not false, misleading or deceptive in any way. You are encouraged to use the resources available on AHPRA's website to **check** and, if necessary, **correct** your advertising to ensure you **comply** with National Law requirements.

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

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
- 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.

More information, including the strategy and examples of unacceptable statements in advertising, is available on the [Advertising resources](#) section of the AHPRA website.

AHPRA's regulatory role means it may need to take action for non-compliant advertising. If you are unsure about whether or not your advertising complies with the National Law you should seek advice from your:

- professional association
- insurer, and/or
- an independent legal adviser.

2. A 'regulated health service' is a service provided by, or usually provided by, a health practitioner, as defined in the National Law. The advertising provisions of the National Law cover the advertising of a regulated health service, or the advertising of a business that provides a regulated health service.



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## Keep in touch with the Board

- Visit [www.osteopathyboard.gov.au](http://www.osteopathyboard.gov.au) for the mandatory registration standards, codes, guidelines and FAQ. Visiting the website regularly is the best way to stay in touch with news and updates from the Board.
- Lodge an enquiry form via the website by following the [Enquiries](#) link on every web page under *Contact us*.
- For registration enquiries, call the Australian Health Practitioner Regulation Agency (AHPRA) on 1300 419 495 (from within Australia) or +61 3 8708 9001 (for overseas callers).
- To update your contact details for important registration renewal emails and other Board updates, go to the AHPRA website: [Update contact details](#).
- Address mail correspondence to: Dr Nikole Grbin, Chair, Osteopathy Board of Australia, GPO Box 9958, Melbourne, VIC 3001.