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**Osteopathy Board of Australia (OBA)
Draft Informed Consent: Guidelines for osteopaths**

**Submission by the
Australian Osteopathic Association
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The Australian Osteopathic Association (AOA) appreciates this opportunity to comment on the Osteopathy Board of Australia (OBA) Draft *Informed Consent; Guidelines for Osteopaths*. We note with some concern the high number of consultations released by the OBA in December with a closing date in January or early February and the impact this may have on effective or inclusive consultation.

The Australian Osteopathic Association

The Australian Osteopathic Association (AOA) is the national professional body representing over 85% of osteopaths across Australia. This gives us a unique voice for representing the profession and lobbying to ensure high industry standards are established or maintained.

Our core work is liaising with state and federal governments, regulatory or other statutory bodies and key stakeholders, such as Universities. As such we always welcome opportunities for input or collaboration, such as this.

This Submission

It is generally acknowledged that if guidelines are to be effective and enforceable they must be clearly understood and directly applicable to those being regulated and not be open to varied individual interpretation and/or application. While overall, we welcome this guideline, the AOA has some concerns regarding the lack of integration of this policy with the varied and specific requirements for consent under state jurisdictions or known areas of potential risk to the public.

The AOA congratulates the OBA for developing this guideline and we offer the following suggestions to ensure the guideline is understandable, enforceable and applicable to the practice of osteopathy in Australia.

Background

As you are aware, in June 2012, the AOA convened a roundtable on informed consent with the OBA, osteopathy universities, Guild and COCA so we could all collectively look at practical ways to meet the legal requirements of consent without creating an unnecessary burden on practitioners.

The AOA understands that consent is incredibly complex and often misunderstood. The aim of the day was to forge a realistic plan between the profession, educators and regulators to establish minimum requirements that meet realistic needs of all parties. Further as the Osteopathic profession still has the ability to have all major stakeholders within one room to debate and develop appropriate policy it was seen as a truly consultative way to develop realistic and appropriate policy.

The AOA believed that may be why this guideline is more applicable, practical and useful than some existing OBA guidelines. As previously stated, the AOA is keen to see and foster a

more constructive and consultative partnerships in guideline development into the future and was instrumental in our proposing the roundtable as a forum for future policy development. We are further saddened that such open, consultative process opportunities have been ignored in other OBA guideline development.

Jurisdictional Requirements

The guidelines could be considerably strengthened by the addition of a jurisdictional matrix that highlights the requirements (or at least links to relevant bodies) by State for:

- Any jurisdiction specific informed consent requirements;
- Any jurisdiction specific skin penetration requirements; and
- Any jurisdiction specific working with children requirements.

Area of Known Potential Risk

Despite the number of complaints being very low in Osteopathy, review of existing complaints and claims data displays some areas of commonality. These tend to fall into two main categories for potential risk of injury or areas of weakness in communication of clinical intent or informed consent. The guidelines would be greatly strengthened if the OBA gave clear and instructive guidance on procedures to ensure informed consent is understood based on existing complaints and claims data.

From the AOA knowledge the areas that would benefit from specific guidance to assist practitioners to be more fulsome in their informed consent processes include:

- Spinal manipulation, with particular attention to cervical manipulation;
- The use and explanation of adjunctive techniques within osteopathy treatments, for example needling techniques;
- Treatment of any sensitive or intimate areas; and more specifically
- The use and clinical justification of any internal techniques.

Material Risk Descriptors

The most significant complexity in achieving true informed consent is the description of material risk to each patient based on the individual and the proposed technique or treatment plan. This is extremely difficult for osteopathic treatment; however, such material risk it is a common law requirement.

Material risk is complex enough, without the added complexity that most risk based research that practitioners can refer to (on spinal manipulation, for example) is based on chiropractic care; varies greatly and tends to focus on only small parts of osteopathic care. Data on risk of injury related to spinal manipulation can vary by a quantum of 10% to 10,000%.

If this policy gave an indication regarding acceptable statistics for material risk both practitioners and the public would greatly benefit and therefore be better protected. Further if data is not available the development of a table to suitably describe material risk would be of great benefit; e.g. from “known to occur but extremely rare” to “common side effect of treatments” etc. The recent work completed by VU on creating evidence associated with the Capabilities Project, may be able to assist with appropriate models.