



The Hon John Hill MP  
Chair, Australian Health Workforce Ministerial Council  
Minister for Health  
GPO Box 2555  
ADELAIDE SA 5001

22 December 2009

Dear Minister

### **Proposals for Ministerial Council approval**

I am pleased to submit the attached proposals from the Osteopathy Board of Australia on mandatory registration standards for the Ministerial Council's approval.

The proposals for registration standards are submitted in line with schedule 7, clause 30 of the *Health Practitioner Regulation National Law Act 2009* (Qld) (the National Law) for Ministerial Council approval under section 12 of the National Law.

The proposals submitted relate to:

- criminal history registration standard
- English language requirements registration standard
- professional indemnity insurance arrangements registration standard
- continuing professional development registration standard
- recency of practice registration standard

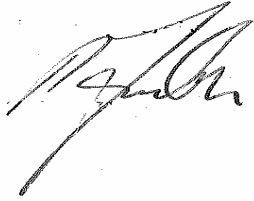
Common minimum registration standards across all boards are proposed for criminal history matters and English language requirements registration standards.

The proposals have been subject to wide-ranging consultation as required in relation to registration standards by section 40 of the national law, and comments have been received from the sector, governments and other stakeholders. The Board has found it very useful during the consultation process to receive advice agreed across jurisdictions from the heads of all health departments across Australia on their views on the matters under consideration.

I advise that the development of the proposals has been consistent with the Australian Health Practitioner Regulation Agency's *Procedures for Development of Registration Standards* which the Agency has issued under section 20(1)(a) of the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* (Qld) (Act A).

The Board looks forward to receiving the approval of the Ministerial Council for its proposals for registration standards under section 12 of the National Law.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Fendall', written in a cursive style.

Robert Fendall  
Chair  
Osteopathy Board of Australia



# **Proposals to the Australian Health Workforce Ministerial Council on registration standards**

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# 1 Mandatory registration standards

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## 1.1 Criminal history

### Osteopathy Board of Australia Criminal history standard

#### Summary

In deciding whether a health practitioner's criminal history is relevant to the practice of their profession, the Board will consider the 10 factors set out in this standard. While every case will need to be decided on an individual basis, these 10 factors provide the basis for the Board's consideration.

#### Scope of application

This standard applies to all applicants and all registered health practitioners. It does not apply to students.

#### Requirements

In deciding whether a health practitioner's criminal history is relevant to the practice of their profession, the Board will consider the following factors:

**1. The nature and gravity of the offence or alleged offence and its relevance to health practice.**

The more serious the offence or alleged offence and the greater its relevance to health practice, the more weight that the Board will assign to it.

**2. The period of time since the health practitioner committed, or allegedly committed, the offence.**

The Board will generally place greater weight on more recent offences.

**3. Whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending.**

In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:

- (a) convictions
- (b) findings of guilt
- (c) pending charges
- (d) nonconviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt, taking into account the availability and source of contextual information which may explain why a nonconviction charge did not result in a conviction or finding of guilt.

**4. The sentence imposed for the offence.**

The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

**5. The ages of the health practitioner and of any victim at the time the health practitioner committed, or allegedly committed, the offence.**

The Board may place less weight on offences committed when the applicant is younger, and particularly under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

**6. Whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since the health practitioner committed, or allegedly committed, the offence.**

The Board will generally place less or no weight on offences that have been decriminalised since the health practitioner committed, or allegedly committed, the offence.

**7. The health practitioner's behaviour since he or she committed, or allegedly committed, the offence.**

Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the commission, or alleged commission of the offence, will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.

**8. The likelihood of future threat to a patient of the health practitioner.**

The Board is likely to place significant weight on the likelihood of future threat to a patient or client of the health practitioner.

**9. Any information given by the health practitioner.**

Any information provided by the health practitioner such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the health practitioner's criminal history.

**10. Any other matter that the Board considers relevant.**

The Board may take into account any other matter that it considers relevant to the application or notification. A Board will not require an applicant or registered health practitioner to provide further information that may prejudice their personal situation pending charges and the Board must not draw any adverse inference as a result of the fact that information has not been provided.

*Note:* the above factors have been numbered for ease of reference only. The numbering does not indicate a priority order of application.

### Definitions

**Criminal history** is defined in the National Law as:

- every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law,
- every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence
- every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.

Under the National Law, spent convictions legislation does not apply to criminal history disclosure requirements.

### Review

This standard will commence on 1 July 2010. The Board will review this standard at least every three years.

## 1.2 English language skills

### Board of Australia English language skills standard

#### Summary

All applicants must be able to demonstrate English language skills at IELTS academic level 7 or the equivalent, and the Board may require this in a number of ways.

An internationally qualified applicant or an applicant who did not complete their secondary education in English must demonstrate that they have the necessary English language skills for registration purposes by achieving the required minimum score in each component of the IELTS academic module, OET or specified alternatives (see 'Definitions', below).

Test results will generally need to be obtained within two years prior to applying for registration. The Board may grant an exemption in specified circumstances.

#### Scope of application

This standard applies to all applicants for initial registration. It does not apply to students.

#### Requirements

1. An applicant who is:
  - an internationally qualified applicant; or
  - an applicant who did not undertake and complete their secondary education in English and in one of the countries specified in Exemption 1 belowmust submit evidence of secondary education to the relevant Board, or arrange for evidence to be provided (in the case of test results) of competency in English language skills as demonstrated by having completed the following tests of English language proficiency:
  - (a) the IELTS examination (academic module) with a minimum score of 7 in each of the four components (listening, reading, writing and speaking); or
  - (b) completion and an overall pass in the OET with grades A or B only in each of the four components.
2. Results must have been obtained within two years prior to applying for registration.
3. An IELTS or OET Test Report Form more than two years old will be accepted as current if accompanied by proof that a candidate has actively maintained employment as a registered health practitioner using English as the primary language of practice in a country where English is the native or first language. Test results must comply with the current requirements of this policy.
4. Results from any of the abovementioned English language examinations must be obtained in one sitting.
5. The applicant is responsible for the cost of English tests.
6. The applicant must make arrangements for test results to be provided directly to the Board by the testing authority; for example, by secure internet login.

#### Exemptions

1. The Board may grant an exemption from the requirements where the applicant provides evidence that:
  - (a) they undertook and completed secondary education that was taught and assessed in English in one of the countries listed below; and
  - (b) the applicant's tertiary qualifications in the relevant professional discipline were taught and assessed in English in one of the countries listed below:
    - Australia
    - Canada
    - New Zealand
    - Republic of Ireland
    - South Africa
    - United Kingdom
    - United States of America.

2. The Board may grant an exemption where an applicant applies for limited registration in special circumstances, such as:
  - (a) to perform a demonstration in clinical techniques
  - (b) to undertake research that involves limited or no patient contact
  - (c) to undertake a period of postgraduate study or supervised training while working in an appropriately supported environment that will ensure patient safety is not compromised.

These special circumstances exemptions will generally be subject to conditions requiring supervision by a registered health practitioner and may also require the use of an interpreter.

3. The Board reserves the right at any time to revoke an exemption and/or require an applicant to undertake a specified English language test.

### Definitions

**IELTS** means the International English Language Testing System developed by the University of Cambridge Local Examinations Syndicate, The British Council and IDP Education Australia (see <http://www.ielts.org/>).

**OET** means Occupational English Test (OET) administered by the Centre for Adult Education (see <http://www.occupationalenglishtest.org/>).

An **internationally qualified applicant** means a person who qualified as a health practitioner outside Australia.

**One sitting** means the period of time set by the testing authority for completion of the test. For example, IELTS states that the listening, reading and writing components of the test are always completed on the same day. Depending on the test centre, the speaking test may be taken up to seven days either before or after the test date.

### Review

This standard will commence on 1 July 2010. The Board will review this standard at least every three years.

## 1.3 Professional indemnity insurance arrangements

### Osteopathy Board of Australia

#### Professional indemnity insurance arrangements standard

##### Summary

This standard specifies the arrangements for professional indemnity insurance (PII) cover that all osteopaths registered or seeking registration must have in place.

Any person practising and/or holding themselves out to be practising osteopathy is required to be registered under the National Law.

##### Scope of application

This standard applies to all applicants and registered practitioners. It does not apply to students or practitioners who have nonpractising registration.

##### Requirements

1. The Board requires all registered osteopaths (except nonpractising registrants) to have in place, at all times during the period of registration, the minimum professional indemnity insurance cover specified by the Board.
2. Osteopaths must ensure that they are covered in all circumstances where they may practise osteopathy and for all modalities being offered while they are practising as an osteopath.
3. Osteopaths must exercise their professional judgement to ensure that they have insurance cover that is appropriate to their individual level of risk. Osteopaths practising in areas where there is a greater risk of the payout of higher claims (e.g. for serious injury, such as spinal injury, to persons under 18 years of age) should ensure that they have an appropriate level of cover in place.
4. The minimum professional indemnity insurance cover is specified on the Board's website <http://www.osteopathyboard.gov.au>. This amount is set at \$20 million at the commencement of this standard but may be varied by the Board.
5. The minimum amount specified is to cover any single claim and the policy must have at least one automatic reinstatement during the period of cover.
6. The policy must not contain exclusions that relate to the individual's scope of practice.
7. The policy must have unlimited retroactivity of cover and include run-off cover for retirement or death.
8. The Board will require a declaration from a registered osteopath on renewal that professional indemnity insurance arrangements are, or will be, in force in relation to the individual. Evidence of PII must be produced if required by the Board.

##### Definitions

**Professional indemnity insurance arrangements** means arrangements that secure for the practitioner insurance against civil liability incurred by, or loss arising from, a claim that is made as a result of a negligent act, error or omission in the conduct of the practitioner. This type of insurance is available to practitioners and organisations across a range of industries and covers the costs and expenses of defending a legal claim, as well as any damages payable. Some government organisations under policies of the owning government are self-insured for the same range of matters.

**Run-off cover** means insurance that protects a practitioner who has ceased a particular practice or business against claims that arise out of activities which occurred when he or she was conducting that practice or business. This type of cover may be included in a PII policy or may need to be purchased separately.

##### Review

This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.



## 1.4 Continuing professional development

### Osteopathy Board of Australia Continuing professional development standard

#### Summary

This standard sets out the requirements for continuing professional development (CPD) for all osteopaths registered or seeking registration. All applicants and registered practitioners must undertake CPD as specified in this standard to maintain their competence to practice.

#### Scope of application

This standard applies to all applicants and registered practitioners. It does not apply to students or osteopaths with nonpractising registration.

#### Requirements

1. To maintain their competence to practice, all registered osteopaths (except those with nonpractising registration) must:
  - (a) undertake 25 hours of CPD annually, which includes a mandatory CPD activity approved by the Board; and
  - (b) maintain a current first aid certificate at the minimum standard of a Senior First Aid (level 2) certificate or equivalent.
2. Applicants who are registered part-way through a registration period must complete six hours of CPD for every three months of registration remaining in the registration period plus the first aid requirements specified in 1(b) above.)
3. CPD should be relevant to the practitioner's area of professional practice and have clear learning aims and objectives that meet the individual's requirements. CPD activities should also have a focus on the clinical aspects of practice, including diagnosis, evidence-based practice and patient safety. Guidelines issued by the Board will assist registered osteopaths to undertake a program of CPD activities that will meet this standard.
4. Practitioners will be required to sign a declaration each year while renewing their registration that confirms that they are complying with this standard.
5. Every year, the Board will audit a percentage of practitioners for compliance with this standard. A percentage of practitioners will be required to submit to the Board evidence of their compliance with this standard in one or more of the following forms:
  - (a) a CPD record issued by a recognised body within the past six months from the date of audit
  - (b) an interim or final report from a recognised body that may provide evidence of partial compliance with the CPD standard. This document will need to be supported by additional information demonstrating that the requirements have been met
  - (c) evidence of assessment by a recognised body of self-directed CPD to a level required to meet the standard
  - (d) a professional portfolio that provides evidence of self-directed CPD undertaken.
6. Applicants who apply for registration or renewal of registration between 1 July 2010 and 30 June 2011 will have until 30 June 2012 to meet the requirements of this standard.

#### Definitions

**Continuing professional development** is the means by which members of the profession maintain, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required throughout their professional lives.

#### Review

This standard will commence on 1 July 2010. The Board will review this standard at least every three years.

## 1.5 Recency of practice

### Osteopathy Board of Australia

#### Recency of practice standard

##### Summary

This standard sets out the requirements for recency of practice for osteopaths to ensure that registrants maintain professional involvement that supports safe and competent practice.

Recency of practice is related to an osteopathic practitioner's domain of practice, which may include clinical practice, academic practice or another domain that involves the use of osteopathic knowledge and skills. The standard makes an important distinction between clinical and nonclinical domains of practice.

##### Scope of application

This standard applies to all applicants for initial registration or renewal of registration.

It does not apply to students, practitioners who have nonpractising registration and applicants who have been registered for less than three months at the time they seek to renew their registration.

##### Requirements

1. Applicants and registered practitioners who have practised for at least 400 hours in their current domain of practice as an osteopath in the previous three years will meet the standard for registration or reregistration as an osteopath.
2. A registered practitioner must undertake at least 400 hours of clinical practice in the previous three years in order to maintain recency of practice in the clinical domain. For example, an osteopath who has been working as an academic (including clinical supervision) but has not undertaken clinical practice would not meet this standard.
3. Registered practitioners will be required to sign a declaration each year when renewing their registration that confirms that they are complying with this standard.
4. In assessing applications that do not meet this standard, the Board will consider:
  - (a) length of absence from the workforce
  - (b) amount and standard of continuing professional development (CPD) undertaken during the period of absence
  - (c) level of experience prior to absence (including duration of prior practice)
  - (d) reason for absence (e.g. caring, illness, study leave)
  - (e) other activities undertaken during absence.
5. The Board may require a person who does not meet this standard, depending on the circumstances, to:
  - (a) undertake an assessment of their competency to practise, or
  - (b) practise under supervision, or
  - (c) undertake specified amounts or types of CPD before returning to practice, or
  - (d) undertake any other activity specified by the Board.
6. Applicants who apply for registration or renewal of registration between 1 July 2010 and 30 June 2011 will have until 30 June 2012 to meet the requirements of this standard.

##### Definitions

**Clinical practice** means direct clinical care of patients, using the current knowledge, skills and attitudes of the osteopathic profession, whether remunerated or not, and regardless of job title.

**Nonclinical practice** means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession, except for the provision of direct clinical care. It includes working in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession and/or use their professional skills.

**Practice** means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes working in a direct nonclinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession and/or use their professional skills.

**Recency of practice** means that a practitioner has maintained recent practice in the profession since qualifying or obtaining registration.

#### Review

This standard will commence on 1 July 2010. The Board will review this standard at least every three years.