

# **Draft Code of Conduct for Osteopaths**

DRAFT

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## Introduction

The Osteopathic Council of New Zealand (“the Council”) under the Health Practitioners Competence Assurance Act 2003 (“the Act”) is the responsible authority that governs the practice of osteopaths. The principal purpose of the Act is to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions. The Council sets and monitors standards in the interests of the public and the profession. The Council’s primary concern is public safety. This Code outlines the standards of ethical conduct to be observed by osteopaths under section 118(i) of the Act.

This code is in addition to the legal obligations that osteopaths have under this Act, the Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Act 1996 and the Health Information Privacy Code 1994. The Act and Code of Rights can be found at <http://www.legislation.govt.nz>

The Council acknowledges Te Tiriti o Waitangi (including the preamble and the three articles, the Ritenga Māori Declaration) as major sources of Aotearoa New Zealand’s constitutional settings. This means that as a regulatory authority, independent from the Crown, we have a responsibility to work with iwi and Māori to give effect to and realise the promise of Te Tiriti o Waitangi. Achieving this will require time, flexibility and the ability to self-reflect, at both Governing Board level and across the osteopathic profession. Council will be forming a range of relationships with iwi and Māori in order to progress this work. The principles of Te Tiriti o Waitangi are integral to providing appropriate osteopathic services for Māori (see page 3).

The *Code of Conduct for Osteopaths* is a set of standards set by the Council that describes the behaviour or conduct that osteopaths are expected to uphold. The Code of Conduct provides guidance on appropriate behaviour for all osteopaths and can be used by health consumers, osteopaths, employers, the Osteopathic Council and other bodies to evaluate the behaviour of osteopaths. The failure to uphold these standards of behaviour could lead to a disciplinary investigation.

Osteopaths are expected to uphold exemplary standards of conduct while undertaking their professional role. Because osteopaths must have the trust of the public to undertake their professional role, they should also have a high standard of behaviour in their personal lives.

This Code is the overarching document that describes professional conduct. Other guidance such as the *Guidelines for Informed Consent* (2014) and *Medical Advertisement Policy* (2016) provide more detailed guidance on specific conduct areas.

This is not a Code of Ethics - it does not seek to describe all the ethical values of the profession or to provide specific advice on ethical issues, ethical frameworks or ethical decision making. The Council has a separate Code of Ethics.

While mandatory language such as ‘must’, ‘shall’ and ‘will’ has restricted use throughout this Code, it is important for osteopaths to understand that there is an expectation that osteopaths will adhere to these standards.

## Acknowledgements

The Council acknowledges the work of the Nursing Council of New Zealand and the Osteopathy Board of Australia on Codes of Conduct that have informed and contributed to this draft Code.

## Te Tiriti o Waitangi and the Osteopathic Council

### Te Tiriti o Waitangi Articles

The following sets out the articles of Te Tiriti o Waitangi that guide our organisation to demonstrate our obligations under Te Tiriti as we fulfil our statutory role and functions.

The Council acknowledge the Māori text of Te Tiriti o Waitangi as a gesture that recognises ngā iwi Māori and the history that brought two peoples together.

As articulated by the courts and the Waitangi Tribunal, the Council has a responsibility to:

- under Article 1: enable Maori to exercise authority over their own health and wellbeing.
- under Article 2: contribute to equitable health outcomes for Māori.
- under Article 3: exercise its responsibilities in ways that enable Māori to live, thrive and flourish as Māori.

Meeting our responsibilities, commitments and obligations under Te Tiriti o Waitangi will make a small but significant contribution to improving the health outcomes of Māori.

### Te Tiriti o Waitangi Principles

Through convention, the Articles of Te Tiriti o Waitangi have been interpreted and expressed through a set of principles. The principles have evolved over time and provide direction for how we are obliged to consider these directions and reflect on the implications for our work as a profession.

- **Self-Determination / Tino Rangatiratanga:** The principle of self-determination – this provides for Māori self-determination and mana motuhake. This requires the Council to work with partners in the design, delivery and monitoring of our relevant statutory work.
- **Partnership / Partnersip:** The principle of partnership – requires the Council and iwi/Māori to work with each other in a strong and enduring relationship.
- **Equity / Mana Taurite:** The principle of equity – this requires the Council to commit to achieving equitable health outcomes for Māori through the statutory functions that it is responsible for.
- **Active protection / Whakamarumarutia:** The principle of active protection – this requires the Council to be well informed on the extent, and nature, of both Māori health outcomes and efforts to achieve Māori health equity through culturally safe standards and the practice of cultural safety.
- **Options / Kōwhiringa:** The principle of options – this requires the Council to ensure that all of its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori models of care.

These principles help us to interpret Te Tiriti o Waitangi and provide guidance to the profession about the actions we must demonstrate to realise our commitment, responsibilities and obligations to Te Tiriti o Waitangi.

## Values underpinning professional conduct

### *Respect*

Treating health consumers, families and colleagues with respect enables osteopathic relationships that support health consumers' health and wellbeing. Treating someone with respect means behaving towards that person in a way that values their worth, dignity and uniqueness. It is a fundamental requirement of professional osteopathic relationships and ethical conduct.

### *Trust*

Osteopaths are privileged in their relationships with health consumers. Osteopaths need to establish trusting relationships with health consumers to effectively provide care that involves touch, using personal information, providing physical support and comfort while being aware of the emotional aspect of these elements of practice. Health consumers need to be able to trust osteopaths to be safe and competent, not to harm them and to protect them from harm. They need to trust osteopaths to work in the interests of their health and well-being and promote their interests. Osteopaths must be trustworthy and maintain the public's trust in the osteopathic profession.

### *Partnership*

Partnership occurs when health consumers are given sufficient information, in a manner they can understand in order to make an informed choice about their care and treatment and are fully involved in their care and treatment. Their independence, views and preferences are valued. Osteopaths must be aware of the inherent power imbalance between themselves and health consumers especially when the health consumer has limited knowledge, may be vulnerable or is part of a marginalised group.

### *Integrity*

Being honest, acting consistently and honouring our commitments to deliver safe and competent care makes osteopaths trustworthy to health consumers. Integrity means consistently acting according to values and principles and being accountable and responsible for our actions. As professionals, osteopaths are personally accountable for actions and omissions in their practise and must be able to justify their decisions.

### **Guidance: Establishing relationships of trust with health consumers**

- It is important to establish a relationship of **trust** with each health consumer by being honest, acting consistently and delivering safe and competent care. Make their care your first concern.

- Treating health consumers with **respect** includes treating them politely and considerately and valuing their dignity, culture and individuality.
- Acting with **integrity** by being consistent according to professional values and principles. Taking steps to reduce risk or harm to health consumers and not abuse your position of trust.

## Principles

Eight principles with standards form the framework for the Code:

These principles are based on the values and are of equal importance.

1. **Respect** the dignity and individuality of health consumers.
2. **Respect** the cultural needs and values of health consumers.
3. Work in **partnership** with health consumers to promote and protect their well-being.
4. Maintain health consumer **trust** by providing safe and competent care.
5. **Respect** health consumers' privacy and confidentiality.
6. Work **respectfully** with colleagues and other health services/practitioners to best meet health consumers' needs.
7. Act with **integrity** to justify health consumers' **trust**.
8. Maintain public **trust** and confidence in the osteopathic profession.

## **Principle 1: Respect the dignity and individuality of health consumers**

### **Standards**

- 1.1 Respect the dignity of health consumers and treat them with kindness and consideration. Identify yourself and your role in their care.
- 1.2 Take steps to ensure the physical environment allows health consumers to maintain their privacy and dignity.
- 1.3 Listen to health consumers, ask for and respect their views about their health and responding to their concerns and preferences where practicable.
- 1.4 Work in partnership with the whānau / family of the health consumer where appropriate and be respectful of their role in the care of the health consumer.
- 1.5 Treat health consumers as individuals and in a way they consider to be culturally safe. (see Guidance: cultural safety)
- 1.6 Practise in a way that respects difference and does not discriminate against those in your care on the basis of sex, marital status, religious belief, ethical belief, colour, race, ethnicity or national origin, disability, age, political opinion, employment status, family status or sexual orientation.
- 1.7 Do not prejudice the care you give because you believe a health consumer's behaviour contributed to their condition.
- 1.8 Do not impose your political, religious and cultural beliefs on health consumers and intervene if you see other health team members doing this.
- 1.9 Take steps to minimise risk and ensure your care does not harm the health or safety of health consumers.

### Guidance: Cultural safety

**Culture** refers to the beliefs and practices common to any particular group of people.

#### Cultural safety

The effective osteopathic practice for a person or family/whānau from another culture is determined by that person or family. Culture includes, but is not restricted to, age or generation; gender; sexual orientation; occupation and socioeconomic status; ethnic origin or migrant experience; religious or spiritual belief; and disability.

The osteopath delivering the care will have undertaken a process of reflection on their own cultural identity and will recognise the impact that their personal culture has on their professional practice. Unsafe cultural practice comprises any action which diminishes, demeans or disempowers the cultural identity and wellbeing of an individual.

### Principle 2: Respect the cultural needs and values of health consumers

- 2.1 Demonstrate commitment to Te Tiriti o Waitangi by recognising the unique status of Māori, acknowledging Māori history, te reo and tikanga Māori. Consider Māori models of health in everyday practice and when developing care plans and promote access to services to meet the needs of Māori health consumers.
- 2.2 Understand Māori health inequalities and pay particular attention to the health needs of the community you practise in. Work in partnership with Māori health consumers and their whānau/family to achieve positive health outcomes and improve health status.
- 2.3 Ensure that osteopathic care is culturally appropriate and acceptable to Māori health consumers and their whānau and is underpinned by the recognition that Māori are a diverse population.
- 2.4 Acknowledge and respond to the identity, beliefs, values and practices held by Māori and incorporate these into osteopathic care.
- 2.5 Practise in a way that respects each health consumer's identity and right to hold personal beliefs, values and goals.
- 2.6 Assist the health consumer to gain appropriate support and representation from those who understand the health consumer's first language culture, needs and preferences.
- 2.7 Consult with members of cultural and other groups as requested and approved by the health consumer.

- 2.8 Reflect on and address your own practice and values that impact on osteopathic care in relation to the health consumer's age, ethnicity, culture, beliefs, gender, sexual orientation and/or disability.

### **Principle 3: Work in partnership with health consumers to promote and protect their well-being**

#### **Standards**

- 3.1. Explain and share information with health consumers that they want and or need. Give health consumers information that is honest and accurate in a way they can understand and invite questions.
- 3.2. Respect health consumers' rights to participate in decisions about their care and involve them and their families/whānau where appropriate in planning care. The concerns, priorities and needs of the health consumer and whānau / family, where appropriate, must be elicited and respected in clinical care.
- 3.3. Support and respect the contribution health consumers make to their own care and wellbeing.
- 3.4. Meet health consumer's language and communication needs where reasonably practicable.
- 3.5. Respect health consumers' right to complain and respond by working with them to resolve the issue.
- 3.6. Advocate for and assist health consumers to access the appropriate level of health care.
- 3.7. Use your expertise and influence to promote the health and wellbeing of vulnerable health consumers.

### **Principle 4: Maintain health consumer trust by providing safe and competent care**

#### **Standards**

- 4.1. Use appropriate care and skill when assessing the needs of health consumers, and planning, implementing and evaluating their care.
- 4.2. Keep your professional knowledge and skills up to date ensuring you engage with purposeful, continuing professional development.
- 4.3. Recognise and work within the limits of your competence and your scope of practice.
- 4.4. Ask for advice and assistance from colleagues especially when care may be compromised by your own lack of knowledge or skill.

- 4.5. Reflect on your own practice and evaluate care with colleagues.
- 4.6. Deliver appropriate care based on best available evidence and best practice.
- 4.7. Keep clear and accurate records (see Guidance: documentation).
- 4.8. Administer treatment and guidance in accordance with legislation, your scope of practice and established standards or guidelines.
- 4.9. Practice in accordance with professional standards relating to safety and quality of health care.
- 4.10. You must ensure that the use of osteopathic techniques or treatment modalities is safe and in the best interests of those in your care.

### **Guidance: Documentation**

- Keep clear and accurate records of the discussions you have, the assessments you make, the treatment you give, and how effective this has been.
- Complete records as soon as possible after treatment has occurred.
- Do not tamper with original records in any way.
- Ensure any entries you make in health consumer's records are clearly and legibly signed (if written), dated and timed.
- Ensure any entries you make in health consumer's electronic records are clearly attributable to you.
- Ensure all records are kept securely
- Osteopaths should refer to the Council's Guidelines for Clinical Record Keeping (2017)

### **Principle 5: Respect health consumer's privacy and confidentiality**

- 5.1. Protect the privacy of health consumers' personal information.
- 5.2. Treat as confidential all information gained in the course of the osteopath - health consumer relationship and use it for professional purposes only.

- 5.3. Gain consent from the health consumer to disclose information. In the absence of consent a judgment about risk to the health consumer or public safety considerations must be made<sup>1</sup>.
- 5.4. Ensure Health Records are stored securely and only accessed for the purpose of providing care.
- 5.5. Ensure health consumer's personal or health information is accessed and disclosed only as necessary for providing care.
- 5.6. Maintain health consumer's confidentiality and privacy by not discussing health consumers, or practice issues in public places including social media. Recognise that even when no names are used, a health consumer could be identified.

### **Guidance: Confidentiality and privacy in the health context**

Any health consumer information learned by the osteopath during the course of treatment must be safeguarded by that osteopath. Such information may only be disclosed to other members of a health care team for health care purposes. Confidential information should be shared only with the health consumer's informed consent, when legally required or where failure to disclose the information could result in significant harm. Beyond these very limited exceptions the osteopath's obligation to safeguard such confidential information is universal.

Refer to the Health Information Privacy Code for further information.

## **Principle 6: Work respectfully with colleagues to best meet health consumers' needs**

### **Standards**

- 6.1. Treat colleagues with respect, working with them in a professional, collaborative and co-operative manner. Recognise that others have a right to hold different opinions.
- 6.2. Acknowledge the experience and expertise of colleagues and respect the contribution of all practitioners involved in the care of the health consumer.
- 6.3. Communicate clearly, effectively, respectfully and promptly with other osteopaths and health care professionals caring for the health consumer and when referring or transferring care to another health professional or service provider.

<sup>1</sup> Refer to Privacy Commissioner (2008) *Health Information Privacy Code 1994 and commentary* [2008 edition] for more information.

- 6.4. Your behaviour towards colleagues should always be respectful and not include dismissive, indifferent, bullying, verbally abusive, harassing or discriminatory actions. Do not discuss colleagues in public places or on social media.
- 6.5. Ensure that a health consumer's trust in the care of colleagues or other health care providers is not undermined by malicious or unfounded criticisms you make.
- 6.6. Work with your colleagues (and your employer) if appropriate to monitor the quality of your work and maintain the safety of those in your care.
- 6.7. Provide support, mentor and teach colleagues and other members of the health care team, especially students and those who are inexperienced.
- 6.8. Intervene to stop unsafe, incompetent, unethical or unlawful practice. Discuss the issues with those involved. Report to an appropriate person at the earliest opportunity and take other actions necessary to safeguard health consumers.
- 6.9. Use a recognised ethical code or framework to assist you in ethical decision making e.g. Osteopathic Council of New Zealand: *Code of Ethics*.

### **Principle 7: Act with integrity to justify health consumers' trust**

#### **Standards**

- 7.1. Be open and honest in your interactions with health consumers.
- 7.2. Protect all health consumers, particularly vulnerable health consumers, from exploitation and harm<sup>2</sup>.
- 7.3. Act promptly if a health consumer's safety is compromised.
- 7.4. Act immediately if a health consumer has suffered harm for any reason. Act immediately to minimise further harm and ensure the health consumer is supported. Record details of the incident, ensuring any organisational and/or clinical policies related to incident management and documentation are followed. A full and prompt explanation should be made to the health consumer concerned and, if appropriate, their whānau / family, about what has occurred and the likely outcome.
- 7.5. Ensure that you do not act in ways that could result in, or be interpreted as resulting in, personal benefit from your osteopathic position, beyond that inherent in the commercial relationship between the osteopath and the private health consumer.

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<sup>2</sup> Also refer to the amendments to the Crimes Act 1961 that place an obligation on people (likely to include osteopaths) who have care of a vulnerable adult or child and create an offence of failing to protect a child or vulnerable adult from risk of death or grievous bodily harm or sexual assault. Refer to sections 151, 152, 195 and 195A.

- 7.6. Recognise that accepting gifts, favours or hospitality<sup>3</sup> may compromise the professional relationship with a health consumer. Gifts of more than a token value could be interpreted as the osteopath gaining personal benefit from his/her position, the osteopath taking advantage of a vulnerable health consumer, an attempt to gain preferential treatment, or an indicator of a personal or emotional relationship
- 7.7. Do not ask for or accept loans or bequests from health consumers or anyone close to the health consumer.
- 7.8. Ensure that any business agreements with a health consumer or former health consumers do not exploit the vulnerability of the health consumer
- 7.9. Do not misuse your professional position to promote or sell products or services that are not for the benefit of the health consumer
- 7.10. Do not act for health consumers in your care through representation agreements nor accept power of attorney responsibilities to make legal and financial decisions on behalf of health consumers.
- 7.11. Ensure you declare to the health consumer any personal, financial or commercial interest which could compromise your professional judgement.
- 7.12. Ensure that advertisements that offer osteopathic services comply with the relevant consumer protection legislation, Fair Trading Act and, if applicable, legislation regulating the advertising of therapeutic goods, as described in Council's Medical Advertisements Policy (2016)
- 7.13. Do not misuse your professional position to promote or sell products or services for personal gain beyond those that are a justifiable component of a clinical management plan.
- 7.14. Respect the possessions and property of health consumers in your care.
- 7.15. Maintain a professional boundary between yourself and the health consumer, their family/whānau and other people nominated by the health consumer to be involved in their care.
- 7.16. Do not engage in sexual or intimate behaviour or relationships with health consumers in your care or with those close to them "See Guidance: Professional boundaries".

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<sup>3</sup> Hospitality in this context does not mean social or cultural rituals of offering/sharing food within a care episode, such as a patient bringing coffee. It means hospitality that goes beyond the care context e.g. a cruise on the harbour or an invitation to a sporting event.

### Guidance: Professional boundaries

- Maintain professional boundaries in the use of social media. Keep your personal and professional life separate as far as possible. Avoid online relationships with current or former health consumers. Do not use social media or electronic communication to build or pursue personal relationships with health consumers.
- Osteopaths must be aware of professional boundaries and ensure that communication via text is not misinterpreted by the health consumer or used to build or pursue personal relationships.
- You should consider the reassignment of care, if possible, of health consumers with whom you have a pre-existing non-professional relationship.
- Sexual relationships between osteopaths and persons with whom they have previously entered into a professional relationship are inappropriate in most circumstances. Such relationships automatically raise questions of integrity in relation to osteopaths exploiting the vulnerability of persons who are or who have been in their care. Consent is not an acceptable defence in the case of sexual or intimate behaviour within such relationships.
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## Principle 8: Maintain public trust and confidence in the osteopathic profession

### Standards

- 8.1. Respect the property and resources of your employer, contractors or associates. Maintain high standards of professional behaviour in your relationship with your colleagues. Adhere to organisational policy and standards that protect public safety.
- 8.2. Accurately represent the nature of the service or the care you intend to provide. Do not claim to be a practising osteopath if you do not hold a current practising certificate.
- 8.3. Document and report your concerns if you believe the practice environment is compromising the health and safety of health consumers (see Guidance: Escalating concerns).
- 8.4. Report to your employer or Osteopathic Council if you believe the health, competence or conduct of a professional colleague will compromise public safety or bring the profession into disrepute.
- 8.5. Your practice must not be compromised by the use of alcohol or drugs.

- 8.6. You have a responsibility to maintain your health and wellbeing and to seek assistance if your health threatens your ability to practice safely.
- 8.7. Ensure you charge appropriately for agreed upon services, particularly when invoicing third party payers.
- 8.8. If you take part in research do so in accordance with recognised guidelines and
- 8.9. do not violate your duty of care to the health consumer.

### **Guidance: Professional misconduct**

- The grounds on which a osteopath may be disciplined are stated in section 100 of the Act. An osteopath may be disciplined if the Health Practitioners Disciplinary Tribunal finds the osteopath guilty of professional misconduct because of an act or omission that amounts to malpractice or negligence or has brought or is likely to bring discredit to the profession.
- Other grounds for discipline under the Act are if the osteopath is convicted of an offence that reflects adversely on their fitness to practise, practising without a practising certificate or practising outside their scope of practice or the conditions included in their scope of practice.

### **Guidance: Fitness to practise and public confidence**

- If you undertake unlawful or unethical actions in your personal life this may reflect adversely on your **fitness to practise** (and be of concern to the Osteopathic Council and other agencies) or may bring discredit to the profession.
- Other behaviour may not lead to criminal or regulatory disciplinary proceedings but may be a matter of concern affecting **public confidence** i.e. it might reduce the trust that an individual health consumer would have in you or reflect badly on the profession as a whole.

### **Guidance: Escalating concerns**

- You have an ethical obligation to raise concerns about issues, wrongdoing or risks you may have witnessed, observed or been made aware of within the practice setting that could endanger health consumers or others. Put the interests of health consumers first.
- If you are unsure, seek advice from a senior colleague or professional organisation.
- If your efforts to resolve the situation within the workplace continue to be unsatisfactory, escalate your concern to another body e.g. Ministry of Health,

Health and Disability Commissioner, the Osteopathic Council or other health professional regulatory authority.

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## Related documents

Osteopathic Council of New Zealand (2009). *Capabilities for Osteopathic Practitioners*

Osteopathic Council of New Zealand (2015). *Capabilities of Paediatric Osteopaths*.

Osteopathic Council of New Zealand (2016). *Advertising Policy*.

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Osteopathic Council of New Zealand (2015). *Guidelines for the Use of Western Medical Acupuncture and Osteopathic Practice*

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Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996

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United Nations (1948). *Universal Declaration of Human Rights*.

## References

Australian Medical Council (2009). *Good Medical Practice a Code of Conduct for Doctors in Australia*.

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*New Zealand Nurses Organisation, NZNO National Student Unit and Nurse Educators in the tertiary sector (2012) Draft Social media and the nursing profession: a guide to online professionalism for nurses and nursing students*