



Regulating osteopathy: Challenges for delivering healthcare in a commercial environment

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Overview



- Regulating the osteopathy profession
- Commercial environment
- Notifications about osteopaths
- Advertising complaints & strategy for compliance

Osteopathy – role of regulator

- Osteopathy Board of Australia – 9 members
- Title protection under the National Law
- AHPRA and 14 National Health Practitioner Boards:
 - Set professional standards
 - Register practitioners and publish national registers
 - Manage notifications (also called complaints)
 - Accreditation
 - Statutory offences

Commercial environment

- 2,230 registered osteopaths
- Unevenly distributed across Australia – 80% cluster in cities and in city of university where trained
- 96% work in private sector
- 19% in solo practice
- Average weekly hours 33.7 in 2015.

* workforce data from National Health Workforce Dataset in 2015

Notifications/concerns/complaints

- We now have 7 years of notifications data - although previously state and territory regulation from 1970s
- Notifications reflect the commercial environment:
 - Boundary violation
 - Clinical care
 - Documentation, billing
 - Consent, confidentiality
- Advertising complaints have increased dramatically

Source of notifications

- Patient or relative 60%
- Fellow practitioner 12%
- Employer 5%
- Other (insurance, police, self, government) 23%
- Few notifications made about osteopaths' health perhaps reflecting the small or solo practice environment (or we might be very healthy!)

Healthcare advertising over time



Advertising practices

Signage at healthcare practice

Increase in print advertising for some health professions

Majority of healthcare advertising online, including through social media

1990's



2017

Advertising regulation involves measuring of signage

Increasing regulation of advertising in health professions

July 2010 – National Law commences with consistent advertising regulation across professions

Regulation of healthcare advertising

Section 133 of the National Law

Advertising must not:

- **be false, misleading or deceptive**, or likely to be misleading or deceptive
- **offer a gift, discount or other inducement**, unless the terms and conditions of the offer are also stated
- **use testimonials or purported testimonials** about the service or business
- **create an unreasonable expectation of beneficial treatment**, or
- directly or indirectly **encourage the indiscriminate or unnecessary use of regulated health services.**

Advertising complaints

- Osteopaths increasingly advertise their private practice online and through social media
- Advertising complaints have increased across professions – with higher numbers in some professions
- Taking regulatory action and increasing compliance has been a priority for the Osteopathy Board and AHPRA in 2017

Advertising complaints

Advertising Complaints in July 2017

Profession	Count
Chinese Medicine Practitioner	38
Chiropractor	592
Dental Practitioner	106
Medical Practitioner	82
Nurse	10
Occupational Therapist	1
Optometrist	2
Osteopath	239
Pharmacist	3
Physiotherapist	307
Podiatrist	10
Psychologist	7
Total	1397



❑ Significant increase in 'offence' complaints about lower risk advertising.

❑ Prosecution under Part 7 is resource intensive. Taking a risk-based approach is not warranted in majority of cases. If we rely on prosecution alone only some individuals are impacted rather than whole profession.

❑ New strategy of increased education / guidance resources + consequences for non-compliance.

Advertising compliance and enforcement strategy



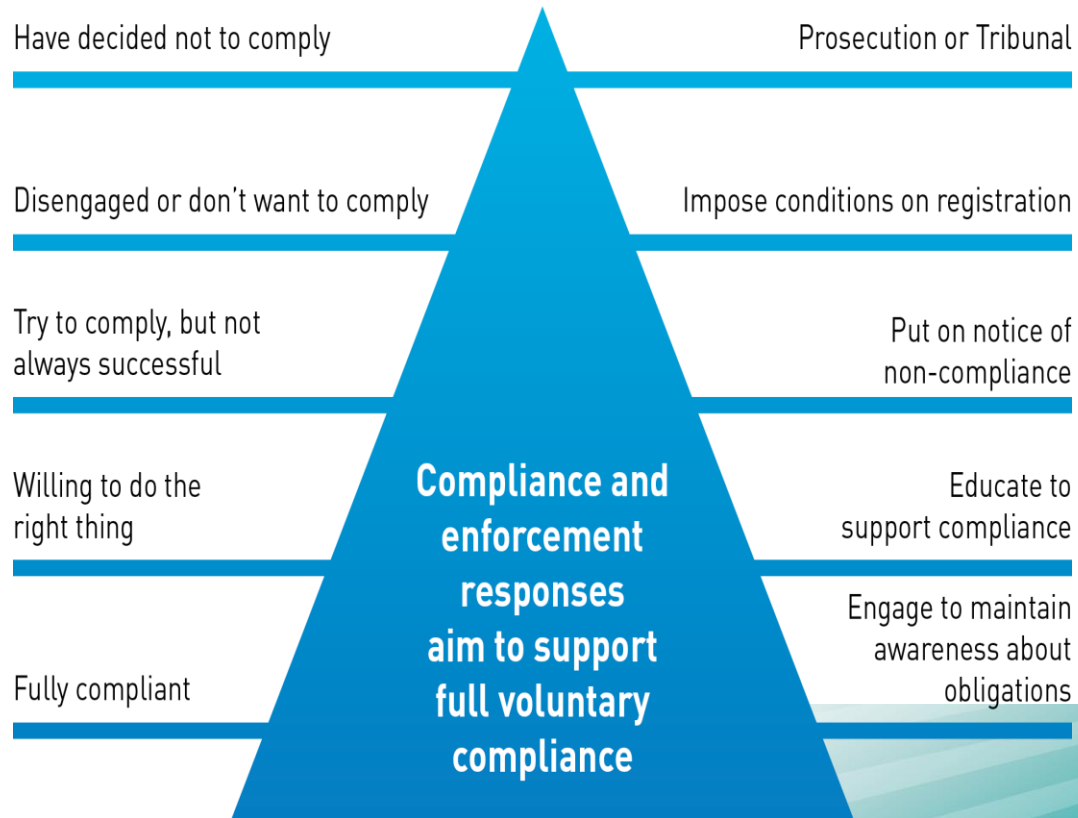
Principles

- Risk-based
- Targeted
- Proportionate
- Transparent
- Engaged

Advertising compliance and enforcement strategy

Attitude to compliance

Compliance and enforcement action we will take



Examples of compliance action

Attitude to compliance

Compliance and enforcement action we will take

Have decided not to comply

Prosecution or Tribunal

Disengaged or don't want to comply

Impose conditions on registration

Try to comply, but not always successful

Put on notice of non-compliance

Willing to do the right thing

Educate to support compliance

Fully compliant

Engage to maintain awareness about obligations

Compliance and enforcement responses aim to support full voluntary compliance

New enforcement approach

- Educative letter indicating breach of requirements
- Follow up audit of compliance

New materials to support compliance

- Summary of requirements
- Examples of compliant and non-compliant advertising

Check your advertising:

Examples of osteopathy advertising claims that are not compliant

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This document outlines examples of advertising claims that don't meet the legal requirements and how to make them compliant. The Australian Health Practitioner Regulation Agency (AHPRA) and the Osteopathy Board of Australia are sharing these examples to help you check your own advertising to ensure you comply with your obligations under the National Law¹.

Why the advertising is non-compliant and how the specific examples could be corrected is based on our assessment of advertising complaints we have received for the osteopathy profession. To do this we apply the National Law and any further guidance that National Boards and AHPRA publish, including the *Advertising guidelines* and resources on our websites.

The examples below are specific to osteopaths and are some of the most common mistakes we see. We have also published common examples on our website, which highlight advertising from various regulated health professions but are still important to help you make your advertising compliant.

Important information

Check if your advertising complies with legal requirements

There are many ways advertising can be false, misleading or deceptive.

Always be clear about the level of evidence to support a claim. You should not make claims about the effectiveness of the treatment or services you provide if those claims cannot be substantiated with acceptable evidence.

We have published a *Summary of advertising obligations* on our website to help explain the legal requirements for advertising a regulated health service.

You should also refer to the full *Guidelines for advertising regulated health services*.

If your advertising is about non-musculoskeletal conditions, be particularly careful!

There is no general agreement among osteopaths and other regulated health professions that osteopathy can effectively treat a range of non-musculoskeletal conditions.

While there is no extensive research evidence about the effectiveness of osteopathy treatment generally, the limited research evidence across manual therapies more broadly does not support osteopaths making claims they can effectively treat non-musculoskeletal conditions.

If advertising refers to a specific condition, it should be clear that the practitioner is treating the aspects of the condition relevant to their practice of osteopathy (e.g. for osteopaths, there should be a reference to treating the musculoskeletal aspects of the condition) and the role of the treatment should not be overstated.



New resources



Examples of non-compliant advertising and how to correct it

These examples highlight non-compliant advertising by osteopaths and/or osteopathy related websites, social media sites such as Facebook, print advertisements and/or advertising by osteopaths or osteopathy clinics on third party websites.

Key

● **Text in green** means this content is okay and is unlikely to mislead consumers.

● **Text in orange** means it can depend. If you have provided the appropriate context and clarification in your advertising, it is unlikely to be misleading to consumers.

● **Text in red** means this advertising is in breach of the legal requirements, and you should remove it from your advertising.

Advertising content

Osteopathy treatment can help with:

- Back pain
- Neck pain
- Asthma
- Ear infections
- Behaviour disorders

Why it is non-compliant

This advertising is considered misleading and deceptive.

Parts of this advertising are unqualified and/or are not supported by acceptable evidence and therefore may mislead consumers.

Changes that would help this advertising to comply

Osteopathy may be able to help manage symptoms often associated with asthma (e.g. muscular tension) rather than treating the condition itself. If this is made clear in your advertising that this is the case then you will be unlikely to mislead consumers.

Behaviour and learning disorders are non-musculoskeletal conditions and have no clear musculoskeletal symptoms. They do not justify a reference to these conditions in advertising by an osteopath.

This statement could be corrected to read:

Osteopathic treatment can help with:

- Back pain
- Neck pain
- Managing symptoms such as muscular tension often associated with asthma

Pay particular attention to:

- the use of a list of health conditions in advertising as this is often misleading, and
- claims by osteopaths about treating non-musculoskeletal conditions are more likely to be misleading. It is often not appropriate to include them in your advertising.

Are you pregnant?

Osteopathy treatment can help with:

- back pain
- other pregnancy related musculoskeletal pains
- morningsickness
- managing pain during labour, and
- shorter labour times.

This advertising is considered misleading and deceptive.

Parts of this advertising are not supported by acceptable evidence and therefore may mislead consumers.

In this advertising there are no clear links between osteopathy treatment and the causes of the non-musculoskeletal conditions listed.

There is no clear evidence provided that osteopathy could effectively treat the conditions listed in red, therefore it's not appropriate to make claims about them in advertising.

This statement could be corrected to read:

Are you pregnant? Osteopathy treatment can help pregnant women with:

- Back pain
- Other pregnancy related musculoskeletal pains

Pay particular attention to:

- the use of a list of health conditions in advertising as this is often misleading, and
- claims by osteopaths about treating non-musculoskeletal conditions are more likely to be misleading. It is often not appropriate to include them in your advertising.

¹ The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

- **More information**
 - www.osteopathyboard.gov.au
 - *Advertising resources at* www.ahpra.gov.au

- **Contact**

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