

Candidate Information on the Terms and Conditions of Appointment to the Osteopathic Council

Health Practitioners Competence Assurance Act 2003

Introduction

This document provides information for prospective members of the Osteopathic Council of New Zealand. It sets out the:

- role and functions of the Council
- composition of the Council
- terms and conditions of appointment
- duties and responsibilities of a member

The Role of Registration Authorities in Regulating Health Professions

Consumers do not always have enough knowledge to make an informed decision about whether osteopaths are competent to carry out their profession. This can be a matter of concern when the action of an incompetent practitioner may impact on the health and safety of consumers. Health profession regulation is one way of providing consumers with information on a practitioner's competence. It ensures that only practitioners who have demonstrated that they continue to meet the minimum standards for entry to a health profession can practice or use particular protected titles.

The Health Practitioners Competence Assurance Act 2003 establishes registration authorities to protect consumers of the services of a wide range of health and disability practitioners. The Act requires registration authorities to establish the competencies required for the registration of practitioners who demonstrate they possess the competencies to practice safely. The Osteopathic Council is one such registration authority.

The Health Practitioners Competence Assurance Act 2003 defines a health practitioner as a person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession. It also defines a layperson as a person who is neither registered nor qualified to be registered as a health practitioner.

Functions of the Osteopathic Council

The Osteopathic Council is an independent statutory body established under section 114(4) of the Health Practitioners Competence Assurance Act 2003 (the 'Act'). As an independent statutory body, the Osteopathic Council has an obligation to conduct

its activities in an open and ethical manner. In addition, the Council has a duty to operate effectively in a manner consistent with its functions as set out in section 118 of the Act.

In general, it is the function of the Council to provide a framework for the regulation of osteopaths in order to protect the public where there is a risk of harm from the practice of the profession. The specific functions of the Council are set out in section 118 of the Act. The Osteopathic Council is to:

- prescribe the qualifications required for scopes of practice within the profession, and for that purpose, to accredit and monitor educational institutions and degrees, courses of studies and programmes:
- authorise the registration of health practitioners under this Act, and to maintain registers
- consider applications for annual practising certificates
- review and promote the competence of health practitioners
- recognise, accredit and set programmes to ensure the ongoing competence of health practitioners
- receive and act on information from health practitioners, employers and the Health and Disability Commissioner about the competence of health practitioners
- notify employers, Accident Compensation Corporation, the Director-General of Health and the Health and Disability Commissioner that the practice of a health practitioner may pose a risk of harm to the public
- consider the cases of health practitioners who may be unable to perform the functions required for the practice of the profession
- set standards of clinical competence and ethical conduct to be observed by health practitioners of the profession
- liaise with other authorities under this Act about matters of common interest
- promote the education and training in the profession
- promote public awareness of the role and responsibilities of the authority
- exercise and perform any other functions, powers and duties that are conferred or imposed on it by or under the Act or any other enactment.

Composition of the Osteopathic Council

There will be eight members on the Osteopathic Council. The Act states in section 120 (2) that the Council will comprise:

- a majority of members who are health practitioners; and
- two lay persons.

Individuals appointed to the Osteopathic Council will include osteopaths, other registered health professionals as appropriate, and two lay members. It is expected that members will have a range of experience, from first-time appointees with little or no experience as a member of such authorities to members with extensive experience.

Consumer Constituency

The consumer constituency of the Osteopathic Council is those who use osteopathy services. Those who use osteopathy services are a cross-section of New Zealanders in terms of ethnicity, gender and location. Laypersons appointed will probably have recent experience of osteopathy services themselves either in the private or public sector, and/or will have wide and recent knowledge of the experiences of other consumers.

Appointment as a Member of the Osteopathic Council

In making yourself available to be considered for appointment, please ensure that:

- there is no **conflict of interest** that would preclude your appointment
- you are available to serve a term of office of up to three years.

As a member of the Council, you will be expected to follow the terms and conditions set out below.

Terms and Conditions of Appointment

Council members are appointed by the Minister of Health for a term of up to three years, by notice in the *Gazette*. Members may be reappointed from time to time but may not be appointed for more than nine consecutive years.

Members may decide not to continue office at any time, in which case they must inform the Minister of Health.

The Act states that a member of the Council is considered to have vacated their office if they die or are adjudged bankrupt under the Insolvency Act 1967. Members may at any time be removed from office by the Minister of Health on the grounds of inability to perform duties of the office, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

Duties and Responsibilities of a Member

This section sets out the Minister of Health's expectations regarding duties and responsibilities of a person appointed as a member of the Osteopathic Council. The intention is to aid members of the Council to work effectively by providing them with a common set of principles for appropriate conduct and behaviour and enable the Council to protect itself and its members from being exposed to legal challenges.

General

1. Council members are accountable to the Minister of Health (and through the Minister of Health to the public of New Zealand) for ensuring that osteopaths are competent and effective in their practice. The functions of the Council, set out in section 114 of the Act, provide the parameters within which the Council operates.
2. Council members attend meetings and undertake Council activities as independent people responsible to the Council as a whole and do not act in the Council as representatives of professional organisations or interest groups. This is especially important because Council members may be party to decisions, which conflict with the views of some of their constituency.
3. Members are free to express their own views within the context of Council meetings but must publicly support a course of action decided by the Council, or, if unable to do that, must not publicly comment on decisions.
4. While it is not the role of Council members to represent any group (health profession or otherwise), all members are expected to contribute equally to achieving the purpose of the Council; that is, to protect the public and incorporate the perspectives of all members and sectors of the public and to ensure that decisions are responsive to the cultural diversity of New Zealand.
5. There is an expectation that Council members will make every effort to attend all Council meetings and devote sufficient time to become familiar with the affairs of the Council and the wider environments within which it operates.
6. Council members may be required to serve on one or more council committees or working groups.

Legislation and Conflicts of Interest

7. It is important that Council members have a common understanding of their role as members in order that decisions can be reached within the spirit of the governing legislation, namely, for the purpose of protecting the public interest through the regulation of osteopaths.
8. Council members will be expected, over time, to become familiar with, and operate according to the Health Practitioners Competence Assurance Act 2003. In addition, the Osteopathic Council is expected to be familiar with, and operate according to the:

- principles of natural justice and administrative law
- Health and Disability Commissioner Act 1994
- Health and Disability Services Code of Consumers' Rights
- Health and Disability Services Act 1993
- Trans-Tasman Mutual Recognition Act 1997
- Privacy Act 1993
- Health Information Privacy Code 1994
- Treaty of Waitangi
- Human Rights Act 1993.

(The Council is also expected to comply with the intent of the Official Information Act 1982.)

9. Council members should perform their functions in good faith, honestly and impartially and avoid situations that may compromise their integrity or otherwise lead to conflicts of interest. Proper observation of these principles will protect them and enable public confidence to be maintained.
10. When Council members believe they have a conflict of interest that will prevent them from reaching an impartial decision or undertaking an activity consistent with the Council's functions, then they must declare a conflict of interest and withdraw from the discussion and/or activity.

Confidentiality

11. Meetings, including agenda material and minutes, of the Council are confidential. Council members must ensure that the confidentiality of Council business is maintained.
12. At no time shall Council members individually divulge details of Council matters or decisions of the Council to persons who are not Council members. Disclosure of Council business to anyone outside the Council must be the decision of the Council, or between meetings, at the discretion of the Chairpersons of the Committee (if they have delegated authority of the Council).
13. Council members must ensure that Council documents are kept secure to ensure the confidentiality of Council work is maintained. Release of Council correspondence or papers can only be made with the approval of the Council.

Meetings of the Council

The number of meetings per year will be decided by the Council. However, it is unlikely that the time commitment would be more than one or two days per month. In addition, members may be required to participate on subcommittees established to address specific issues.

At any meeting of the Council the quorum necessary for the transaction of business is five members.

When carrying out its functions the Council must follow the principles of natural justice and administrative law. The Council must act lawfully, that is, the Council can only act within the limits of its powers set out in the Health Practitioners Competence Assurance Act 2003. The Council must also act fairly when carrying out its functions. Decisions of the Council are reviewable by the Courts and it is also possible for people to take civil action against the Council or its individual members.

Fees and Allowances

Members of the Council, and of any committee appointed by the Council, are paid fees for attendance at meetings. The Council sets its own fees. The fees for the Chair are currently \$600 (less tax) per day. Members are paid \$500 (less tax) per day. For work that is not Council meetings, the Chair is paid an hourly rate of \$100 and members are paid an hourly rate of \$80. These fees are not consistent with the SSC Fees Framework, but are not required to be as they are sourced from the registration fees paid by osteopaths to the Council. Members may be paid for preparation time at the discretion of the Council. Actual and reasonable travel and accommodation expenses will be paid by the Council.

More detailed information can be obtained from the Council's registrar:

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