



New South Wales

## Osteopaths Regulation 2002

under the

Osteopaths Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Osteopaths Act 2001*.

CRAIG KNOWLES, M.P.,

Minister for Health

### Explanatory note

This Regulation provides for certain matters under the *Osteopaths Act 2001*, including:

- (a) setting out procedures for meetings of the Osteopaths Registration Board (*the Board*), and
- (b) prescribing certain information about insurance arrangements as information to be furnished in an annual return by an osteopath, and
- (c) setting out procedures for appeals on a point of law where the Board deals with a complaint against a registered osteopath, and
- (d) prescribing certain offences relating to traffic and parking as offences that are not required to be notified to the Board, and
- (e) prescribing the qualifications for an osteopath appointed to sit on the Osteopaths Tribunal, and
- (f) setting out procedures for notifying that a registered osteopath has become a mentally incapacitated person, and
- (g) providing for an offence relating to advertising osteopathy services, and
- (h) prescribing fees for inspection of the Register or recording additional information in the Register.

## **2002 No 541**

Osteopaths Regulation 2002

Explanatory note

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This Regulation is made under the *Osteopaths Act 2001*, in particular sections 20, 21, 22, 23, 30, 77 and 101 and Schedules 1 and 2, and section 132 (the general regulation-making power).

This Regulation comprises matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Osteopaths Regulation 2002

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## **2002 No 541**

Clause 1            Osteopaths Regulation 2002

Part 1             Preliminary

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# **Osteopaths Regulation 2002**

## **Part 1 Preliminary**

### **1 Name of Regulation**

This Regulation is the *Osteopaths Regulation 2002*.

### **2 Commencement**

This Regulation commences on 1 August 2002.

### **3 Definitions**

In this Regulation:

*patient* means a person to whom medical treatment or other medical services are provided.

*the Act* means the *Osteopaths Act 2001*.

## **Part 2 Proceedings of Board**

### **4 Proceedings of Board at ordinary meetings**

- (1) Unless otherwise determined by the Board, a meeting of the Board is to be held each month.
- (2) However, at least 8 meetings of the Board must be held during any period of 12 months.
- (3) The Registrar must give each member at least 3 days' notice in writing of the time and place of a meeting, together with a copy of the agenda for the meeting.

### **5 Special and urgent meetings**

- (1) The President or any 3 members may, by notice in writing to the Registrar, call a special meeting of the Board, and any such special meeting is to be held within 7 days after the Registrar receives the notice.
- (2) The President may, by notice in writing to the Registrar, call an urgent meeting of the Board for any purpose, and any such urgent meeting is to be held within 3 days after the Registrar receives the notice.
- (3) The Registrar must give each member at least 24 hours' notice in writing of the time and place of any special or urgent meeting.

### **6 Lack of quorum**

If at the expiration of 30 minutes after the time appointed for any meeting of the Board a quorum is not present, the meeting and all business stand adjourned to the next meeting or to such other date as may be fixed by the members present.

## **2002 No 541**

Clause 7            Osteopaths Regulation 2002

Part 3             Advertising

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### **Part 3 Advertising**

#### **7 Advertising**

A person must not advertise osteopathy services in a manner that:

- (a) is false, misleading or deceptive, or
- (b) creates an unjustified expectation of beneficial treatment, or
- (c) promotes the unnecessary or inappropriate use of osteopathy services.

Maximum penalty: 10 penalty units.

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## Part 4 Miscellaneous

### 8 Excluded offences

- (1) Sections 20 (1) (a), 21 (1) (a) and 22 of the Act do not apply in respect of an excluded offence.
- (2) An excluded offence is not relevant for the purposes of clause 4 of Schedule 1 to the Act.
- (3) In this clause, *excluded offence* means any offence relating to the parking of motor vehicles or any offence under the road transport legislation (within the meaning of the *Road Transport (General) Act 1999*) except for the following offences:
  - (a) an offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle negligently on a road or road related area if the registered osteopath is, by way of penalty, sentenced to imprisonment or fined a sum of not less than \$200,
  - (b) an offence under section 42 (2) of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle on a road or road related area furiously, recklessly or at a speed or in a manner dangerous to the public,
  - (c) any offence under section 19 (2) of the *Road Transport (General) Act 1999* (which relates to refusing to comply with a requirement to produce a driver licence, or to state name and home address, or stating a false name and home address),
  - (d) any offence under section 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving etc while under the influence of alcohol or any other drug),
  - (e) any offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998* (which relates to driving while unlicensed and other relevant matters),
  - (f) any offence under section 70 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to failing to stop and give assistance after an accident),
  - (g) any offence under section 9 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to presence of prescribed concentration of alcohol in person's blood),

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Part 4                      Miscellaneous

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- (h) an offence under section 43 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to menacing driving),
- (i) any other offence under the road transport legislation if the court orders the disqualification of the registered osteopath from holding a driver licence.

### 9 Additional information to be included in annual return

For the purposes of section 20 (1) (l) of the Act, the following information is to be specified in a return:

- (a) the name of any insurer who has issued a policy of professional indemnity insurance to the registered osteopath that is current at the time that the osteopath furnishes the return,
- (b) the maximum amount for which the registered osteopath is insured by such a policy of insurance.

### 10 Notice of mental incapacity of registered osteopath

- (1) For the purposes of section 23 of the Act, the person required to cause notice of mental incapacity to be given to the Registrar is:
  - (a) in the case of a registered osteopath who is a mentally incapacitated person and becomes a patient at an institution because of that incapacity—the medical superintendent of the institution, or
  - (b) in the case of a registered osteopath who is a mentally incapacitated person because of being a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 23 of the Act is to be given by telephone within 1 day, and by post within 7 days, after the registered osteopath is admitted to the institution or becomes a protected person, and is to specify the following:
  - (a) the name and residential address of the osteopath,
  - (b) the date on which the osteopath was admitted to the institution at which the osteopath is a patient or became a protected person.



**11 Registrar not required to verify complaint by statutory declaration**

For the purposes of section 30 (2) (g) of the Act, the Registrar is prescribed as a person who is not required to verify a complaint to the Board by statutory declaration.

**12 Appeal on point of law: section 77**

An appeal referred to in section 77 of the Act is to be made:

- (a) by causing a notice of appeal, specifying the grounds on which the appeal is made, to be given to the Chairperson (or, if a Deputy Chairperson is nominated under section 77 (1), to the Deputy Chairperson so nominated), and
- (b) by causing a copy of the notice of appeal to be given to each other party to the proceedings from which the appeal has arisen.

**13 Qualification of osteopath sitting on Tribunal**

For the purposes of section 101 (3) (b) of the Act, the prescribed qualification for a registered osteopath appointed by the Board to sit on the Tribunal is 7 years standing as a registered osteopath (which may include time as an osteopath registered under the *Chiropractors and Osteopaths Act 1991*).

**14 Fee for inspection of Register**

For the purposes of clause 21 (4) of Schedule 1 to the Act, the prescribed fee (being the maximum amount for an inspection of the Register) is \$20.

**15 Fee for additional information to be recorded in Register**

For the purposes of clause 22 (3) of Schedule 1 to the Act, the prescribed fee (being the fee for recording additional particulars in the Register) is \$20.

**16 Repeal**

The *Osteopaths Transitional Regulation 2002* is repealed.