



New South Wales

# Osteopaths Regulation 2007

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*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, without any major changes in substance, the *Osteopaths Regulation 2002*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) procedures for meetings of the Osteopaths Registration Board (*the Board*),
- (b) advertising of osteopathy services,
- (c) excluding certain offences relating to traffic and parking from the requirement that offences be notified to the Board,
- (d) requiring certain information about insurance arrangements to be furnished in an annual return by an osteopath,
- (e) procedures for notifying that a registered osteopath has become a mentally incapacitated person,
- (f) procedures for appeals on a point of law where the Board deals with a complaint against a registered osteopath,
- (g) the qualifications required of an osteopath appointed to sit on the Osteopaths Tribunal,
- (h) fees for inspection of the Register or recording additional information in the Register.

This Regulation is made under the *Osteopaths Act 2001*, in particular section 132 (the general regulation-making power) and the sections referred to in the Regulation.

This Regulation comprises or relates to 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.

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## Osteopaths Regulation 2007

under the

Osteopaths Act 2001

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Osteopaths Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Osteopaths Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

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

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

(2) Notes in this Regulation do not form part of this Regulation.

## **2007 No 344**

Clause 4            Osteopaths Regulation 2007

Part 2             Proceedings of Board

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### **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.

## **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.

## 2007 No 344

Clause 8 Osteopaths Regulation 2007

Part 4 Miscellaneous

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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 2005*) 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 171 (2) of the *Road Transport (General) Act 2005* (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),
  - (h) any 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 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.

## **2007 No 344**

Clause 12            Osteopaths Regulation 2007

Part 4                Miscellaneous

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### **12    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*).

### **13    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.

### **14    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.

### **15    Savings**

Any act, matter or thing that, immediately before the repeal of the *Osteopaths Regulation 2002*, had effect under that Regulation, is taken to have effect under this Regulation.

BY AUTHORITY

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