

**CHIROPRACTIC & OSTEOPATHY BOARD
OF SOUTH AUSTRALIA**

**CODE OF
PROFESSIONAL CONDUCT
AND
PRACTICE**

Approved by the Minister for Health on 17 November 2008

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Note: *Information on the Complaints and Investigation Process is available in a separate document entitled “Investigation Process” which can be obtained from the Board’s office or the website: www.cbsa.sboards.com.au*

1. INTRODUCTION

In accordance with the provisions of the Chiropractic and Osteopathy Practice Act 2005 (SA) (“the Act”), the Chiropractic & Osteopathy Board of South Australia (“the Board”) must perform its functions with the object of protecting the health and safety of the public by achieving and maintaining high professional standards of both competence and conduct in the provision of chiropractic and osteopathy in this State.

The Board has therefore produced this Code of Professional Conduct & Practice to convey to registered chiropractors, osteopaths, chiropractic students, osteopathy students (all referred to as “registrants”) and chiropractic and osteopathy service providers (known as “providers” – refer to the Glossary of Terms) the standards necessary to discharge their duties and responsibilities in an appropriate and professional manner.

Pursuant to Section 3 of the Act:

“(1) Unprofessional conduct includes:

- (a) improper or unethical conduct in relation to professional practice; and
- (b) incompetence or negligence in relation to the provision of chiropractic or osteopathy; and
- (c) a contravention of or failure to comply with:
 - (i) a provision of the Act; or
 - (ii) a code of conduct or professional standard prepared or endorsed by the Board under the Act; and
- (d) conduct that constitutes an offence punishable by imprisonment for 1 year or more under some other Act or law.

(2) A reference in the Act to unprofessional conduct extends to:

- (a) unprofessional conduct committed before the commencement of the Act; and
- (b) unprofessional conduct committed within or outside South Australia or the Commonwealth.

(3) A reference in the Act to ***engaging in conduct*** includes a reference to failing or refusing to engage in conduct.”

(Also refer to “Unprofessional Conduct in a Private Capacity” in Glossary of Terms.)

This Code is not exhaustive. Any dereliction of professional duty or the abuse of any of the privileges and opportunities afforded by practising chiropractic or osteopathy may give rise to an allegation of unprofessional conduct.

The question of whether any particular course of conduct amounts to unprofessional conduct is a matter determined by the Board, after considering the evidence in each case.

Note: A contravention or failure to comply with this Code of Professional Conduct & Practice will, of itself, amount to unprofessional conduct.

2. ETHICAL PRINCIPLES

2.1 Obligations to the Public

The public is entitled to receive safe, effective and ethical chiropractic and osteopathy services performed by knowledgeable, skilled, accountable practitioners. A registrant/provider will utilise an individualised, comprehensive approach for each patient, which recognises the patient's needs and background and his/her right to make informed decisions about his/her care. A registrant/provider shall not take advantage of a patient in any manner.

A registrant/provider shall :

- (a) Listen to a patient and respect his/her views.
- (b) Treat patients politely and considerately.
- (c) Respect a patient's privacy and dignity.
- (d) Give a patient information about his/her condition and care, outlining the risks and benefits, and prognosis, in a way he/she can understand. A registrant/provider should provide this information to the parent, guardian or person responsible where patients lack the maturity or ability to understand etc.
- (e) Check that the patient, parent, guardian or person responsible has understood the information given and the course of action proposed, and that he/she consents to it, before providing care or investigating a patient's condition.
- (f) Respect the right of a patient to be fully involved in all decisions about his/her care.
- (g) Respect the right of a patient to decline care or decline to take part in teaching or research.
- (h) Respect the right of a patient to a second opinion.
- (i) Observe professional boundaries with patients. This includes not engaging in personal relationships or sexual behaviour with patients.
- (j) Embed cultural respect into the way he/she practises the profession. A registrant/provider should ensure that all practice, and in particular provision of services to Aboriginal and Torres Strait Islander people, encompasses the principles set out in section 2.3 of the 'Cultural Respect Framework for Aboriginal and Torres Strait Islander Health 2004-2009', extracted in Appendix 1.
- (k) Recognise and support carers in their role in the community (Refer: Carers Recognition Act 2005 (SA) and SA Carers Policy – Supporting Carers www.familiesandcommunities.sa.gov.au/sacarers)

A registrant/provider shall not :

- (l) Exploit any relationship to further his/her own physical, psychological, emotional, financial, political or business interests at the expense of the best interests of the patient.

2.2 Obligations to the Profession

A registrant/provider is expected to maintain standards of practice and conduct in a professional and ethical manner. A registrant/provider is obligated to comply with the Act and Regulations, and adhere to the guidelines of the Board, and is required to maintain professional competency that will ensure the delivery of safe, quality chiropractic and osteopathy services.

A registrant/provider shall:

- (a) Maintain professional integrity and conduct all professional activities, programs and relations honestly and responsibly.
- (b) Ensure that professional employees are registered with the Board and continue to maintain current registration.
- (c) As a partner, former partner, locum, employee or previous employee, respect the ownership and confidentiality of the principal practitioner's practice records when establishing a new practice.
- (d) Respect the right of colleagues and other health professionals to hold views that differ from his/her own. A practitioner should not demean other health professionals or their professional practices or beliefs.
- (e) Maintain awareness of the Chiropractic and Osteopathy Practice Act 2005 (SA) ("the Act") and Regulations, this Code of Professional Conduct & Practice, and any other Board guidelines issued from time to time, and comply with same.

2.3 Obligations as Professional Practitioners

Each registrant/provider must demonstrate competence. A registrant/provider must continually update professional knowledge and skills relevant to his/her area of practice. A registrant/provider shall collaborate with professionals and others as appropriate with a goal to enhancing patient care.

A registrant/provider shall:

- (a) Provide competent, ethical service to a patient.
- (b) Aspire to a high level of professional efficacy through the maintenance and application of current, relevant knowledge and skill.
- (c) Develop and maintain collaborative relationships and exchange knowledge as required in the interests of a patient's health and well being, while observing obligations with respect to patient confidentiality.

- (d) Report to the Board, as required by the Act:
 - (i) medical unfitness or unprofessional conduct of a registrant (refer Section 43 of the Act);
 - (ii) any practice of chiropractic or osteopathy or misuse of the title “Chiropractor” or “Osteopath” by a person not registered by the Board;
 - (iii) if he/she becomes aware that he/she is or may be medically unfit to provide chiropractic or osteopathy (refer Section 62 of the Act);
 - (iv) prescribed information relating to any claim for damages or other compensation (refer Section 65 of the Act, and Regulation 13 of the Chiropractic and Osteopathy Practice (General) Regulations 2006 (“the General Regulations”));
 - (v) details of interest in a prescribed business (refer Section 56 of the Act, and General Regulation 12);
- (e) Co-operate with internal quality assurance and external statutory investigations to improve the safety and quality of services.

A registrant/provider shall not:

- (f) Provide chiropractic or osteopathy services when impaired by alcohol, drugs or other addictive substances, or while medically unfit.

3. STANDARDS OF PROFESSIONAL CONDUCT & PRACTICE

3.1 Professional Accountability

As a regulated professional, a registrant/provider should ensure that he/she serves the patient's best interest, demonstrating accountability, safety and quality of patient care. Accountability means that a registrant/provider is responsible for his/her actions. A registrant/provider has an obligation to account for and explain his/her actions. A competent registrant/provider is aware of his/her strengths and limits, knows the guidelines and rules, makes appropriate choices consciously and deliberately, and is able to explain why he/she took a particular course of action.

A registrant/provider shall:

- (a) Maintain a high level of professional knowledge and skill to ensure continued competency (refer to the Board's "Ongoing Competency Model for Maintaining Registration"). The onus is on the registrant/provider to seek out and utilise assistance and resources on an ongoing basis to remain competent and provide quality care (eg. participation in courses, seminars, conferences, workshops etc.).
- (b) Be responsible for working within the scope of practice of the profession and ascertaining the extent to which legislation, regulations, standards, competencies, guidelines and policies related to the practise of the profession apply to his/her practice.
- (c) Recognise the parameters of his/her professional competence and avoid going beyond the limitations of his/her knowledge and skills. For patients whose needs fall outside the domain of the registrant/provider's competence, assistance and resources must be sought out and utilised to provide the required services, or the patient must be referred or recommended for referral to appropriate professional services.
- (d) Act in accordance with the highest standards of professional integrity and impartiality. A registrant/provider must not exploit professional relationships for personal gain or for imposing religious or political beliefs.
- (e) Update his/her knowledge and skills before re-entering the workforce if he/she has not practised chiropractic or osteopathy for a continuous period of five years or more. This may be at the direction of the Board and involve supervised practise. (Refer Section 38 of the Act.)
- (f) When supervising a student or person seeking full registration under the Act:
 - (i) ensure that patients are aware of the student's registration status or person's conditional registration status (refer Section 35 of the Act);
 - (ii) be directly responsible for care and treatment provided to patients;
 - (iii) provide appropriate training and feedback in accordance with the University's or Board's guidelines;
 - (iv) ensure that, at the start of the supervisory period, the student or conditional registrant understands and, thereafter, adheres to the professional and ethical standards of chiropractic and osteopathy practice in accordance with this Code.

- (g) Present a report of findings to the patient honestly and based on his/her clinical presentation. The report should not understate, overstate or exaggerate the seriousness of a patient's condition.
- (h) Ensure that statements or advertising materials do not intend, or are not likely, to appeal to a patient's fears, anxieties or emotions concerning his/her care or condition or the possible results of his/her failure to obtain the offered services.
- (i) Be present at all times at public spinal screenings and public educational sessions in chiropractic or osteopathy arranged/sponsored by the registrant/provider. It is unacceptable for unqualified/unregistered persons to provide chiropractic or osteopathy assessment or clinical advice.

A registrant/provider shall not:

- (j) Disrespect the ethical, religious and political beliefs of patients, students or colleagues. A registrant/provider must not discriminate in employment or in the provision of services on grounds of race, sex, Aboriginality, place of origin, marital status, pregnancy, disability, sexuality or age. A registrant/provider must not engage in an act of victimisation or sexual harassment against patients, students or colleagues.
- (k) Provide chiropractic or osteopathy unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred in the provision of chiropractic or osteopathy or proceedings under Part 4 of the Act against the registrant/provider (refer Section 64 of the Act). The Board may exempt a registrant/provider from the requirement to be indemnified against loss.
- (l) Over-service a patient. It is the responsibility of the registrant/provider to offer care to the patient only while chiropractic or osteopathy can be expected to be of benefit (clinical justification).
Re-evaluation must occur in accordance with the "Clinical Justification Flow Chart" (Appendix II), to ascertain ongoing progress or the need for change/referral in the case of no improvement in a patient's condition. Clinical justification must be present for care to continue and the number of sessions proposed must not be arbitrary or excessive.
- (m) Directly induce or solicit patients from the practice of another registrant/provider.
- (n) Overcharge a patient.

3.2 Transparency/Advertising

Transparent practice requires full disclosure and clear, open, and thorough communication. Transparent practice contributes to the registrant/provider's integrity. It is inappropriate to withhold information that may impact on the patient's ability to become involved as an informed participant. The registrant/provider is responsible for ascertaining the nature and extent of information to be shared and the persons with whom it needs to be shared.

A registrant/provider shall:

- (a) Practise in an open, professional and objective manner.
- (b) Recognise the importance of clear understanding with respect to financial matters with patients. Arrangements for payments and payment rates should be settled at the beginning of a therapeutic relationship. The registrant/provider's bill must reflect services actually rendered.
- (c) Be cautious in prognosis, act only on up to date information and not exaggerate the efficacy of his/her service or give specific guarantees regarding the results to be obtained from chiropractic or osteopathy care.
- (d) Ensure that statements or reference to research in advertisements or other promotional material is accurate and pertains to peer-reviewed literature that holds current acceptance within the chiropractic community (eg. "*Chiropractic can double your immunity*" is misleading and not supported by peer-reviewed literature). Footnote references must be included.
- (e) Only use chiropractic practice/business names which are not misleading or deceptive, or likely to mislead or deceive. Practice names shall be in good taste and not designed to adversely affect the standing of the chiropractic or osteopathy profession.

A registrant/provider shall not:

- (f) Misrepresent his/her role or competence to the patient. A registrant/provider will represent his/her knowledge, skills and abilities in a clear, open manner having considered the knowledge and expectation of the intended audience.
- (g) Misrepresent professional qualifications, education, experience or affiliations. Descriptions of practice, experience, techniques and training (eg. training in paediatrics, service with a focus on children) are permitted, in that they support the public's ability to make an informed choice, so long as they do not amount to an assertion of specialist status.

- (h) Advertise or make a statement that, in any way:
- (i) is false, misleading or deceptive;
 - (ii) is designed to mislead or deceive;
 - (iii) creates an unjustified expectation of the benefit of care;
 - (iv) promotes the unnecessary or inappropriate use of his/her services;
 - (v) suggests x-ray examinations are performed routinely without clinical justification;
 - (vi) claims that he/she has unique prominence in the practice of chiropractic or osteopathy; or
 - (vii) is likely to bring the profession into disrepute.

An advertisement or statement may be considered to bring the profession into disrepute if it:

- is disparaging of any other profession or professional; or
 - contains material of a rude, offensive or undignified nature.
- (i) Advertise a chiropractic or osteopathy practice or chiropractic or osteopathy services in a manner which uses, refers to or quotes from testimonials or purported testimonials. The use of testimonials within a registrant/provider's own practice is acceptable.
- (j) Pay or give anything of value to a representative of the media or anyone else in anticipation of, or in return for, professional publicity in a news item, or for receiving or making a referral.

3.3 Confidentiality

A registrant/provider is entrusted with personal and often sensitive information about his/her patients. A registrant/provider has a responsibility to respect, secure and protect the privacy of this information subject to any legal requirement to the contrary (eg. mandatory reporting). Even when sharing with those individuals who have the appropriate authority to receive it, the quantity and content of information provided should reflect a principle of a "need to know" basis only.

A registrant/provider shall:

- (a) Comply with the relevant codes and principles pertaining to confidentiality – the National Privacy Principles ("NPPs") as contained in Schedule 3 of the Privacy Act 1988 (Commonwealth) (available from the Office of the Privacy Commissioner's website: www.privacy.gov.au/health) where a registrant/provider is in private practice, and the Code of Fair Information Practice for registrants in the public sector (available from the Department of Health's website: www.health.sa.gov.au/publications/guidelines) .
- (b) Report all abuse or neglect, even if only suspected, involving children under the age of 18 to the Department for Families and Communities.

- (c) Report all cases of actual and alleged sexual abuse by a regulated health professional of a patient to the Registration Board of the abusing or allegedly abusing professional. In the event of an alleged sexual abuse of a patient who is over the age of 18 by a non-regulated health provider, a registrant/provider should report the information to an appropriate authority (ie. Police, employer) if the patient consents.
- (d) Take reasonable steps to inform the appropriate third party (eg. Police, Assessment & Crisis Intervention Service (ACIS), person at risk, patient's general practitioner) in the event that the registrant/provider has reason to believe that a patient will seriously harm himself/herself or another person.

3.4 Effective Communication

Clear communication is fundamental to the development of the professional-patient relationship. It is considered a competency of practice for a registrant/provider to utilise a communication process that promotes shared understanding with those with whom he/she interacts. Effective communication involves the establishment of a feedback process and includes appropriate use of verbal, non-verbal and written communication.

A registrant/provider shall:

- (a) Subject to the consent of the patient, ensure that there is an agreed clear, mutual understanding of the registrant/provider's care plan by all persons involved with the patient.
- (b) Address a patient in a form or level of English which he/she understands or, if the patient so wishes, through an interpreter fluent in the patient's preferred language.
- (c) Fully inform the patient of the purpose and process and risks of any testing/assessment and how the results will be used, prior to administration of the testing/assessment.
- (d) Treat colleagues and students with respect, courtesy, fairness and good faith.
- (e) When engaged in study and research be guided by and be familiar with the World Medical Association Declaration of Helsinki, and the National Health & Medical Research Council (NHMRC) Statement on Human Experimentation. Where appropriate, researchers should approach relevant ethics committees for advice or approval.

A registrant/provider shall not:

- (f) Unduly delay care of a patient when the patient is required to attend "educational" or "information" sessions.
- (g) Withhold care on the basis of compulsory attendance of a spouse or family member at an "educational" or "information" session, except in the case of a guardian.

- (h) Discuss in a disparaging way, or offer an opinion that discredits the competency, quality of service provided, or methods used by another professional or an agency. Prior to offering a professional opinion about the competency or services provided by another registrant/provider, another professional and/or another agency, a registrant/provider should consider:
 - (i) whether he/she has sufficient information;
 - (ii) the quality of that information;
 - (iii) his/her competence in evaluating the information;
 - (iv) the potential impact on the patient;
 - (v) who has requested the opinion and for what purpose.

3.5 Consent and Informed Consent

Informed consent of the patient promotes free choice. It supports an honest, patient-centred approach that helps to ensure that the patient's best interests are served. Consent is defined as the patient's permission to proceed with an agreed course of action. Informed consent requires that the person making the decision receives all the information that a reasonable person in the same circumstances would require in order to make a decision, including alternative options and risks of not having treatment, and that the registrant/provider responds to any reasonable requests for additional information about the matter.

If the patient is unable to give informed consent appropriate steps must be taken to obtain the consent of a guardian, relative or, if necessary, the Guardianship Board as provided for under the Guardianship and Administration Act 1993 (SA).

A registrant/provider shall:

- (a) Obtain consent verbally or in writing, or in rare cases, by implication. There should be documented evidence of such consent for chiropractic or osteopathy services.
- (b) Respect the right of the patient either to consent or refuse to consent to participate in chiropractic or osteopathy services, and to be fully informed at all stages of treatment.
- (c) Ensure the patient knows the specific nature of the services being provided both initially and on an ongoing basis. A registrant/provider, at the earliest opportunity, should ensure the patient understands and appreciates:
 - (i) the nature and purpose of the care/service to be provided;
 - (ii) the expected benefits and limitations of the care/service;
 - (iii) the material effects, risks and side effects of the care/service;
 - (iv) any alternative treatment or courses of action that might reasonably be considered;
 - (v) the likely consequences of not undertaking the care/service;

- (vi) the scope of the referral;
 - (vii) the extent of confidentiality to be maintained;
 - (viii) where his/her consent is required;
 - (ix) who is the payer of the services.
- (d) Comply with current legislation where it exists (eg. Consent to Medical Treatment and Palliative Care Act 1995 (SA), Guardianship and Administration Act 1993 (SA), Carers Recognition Act 2005 (SA)) and adhere to the principles of informed consent for all chiropractic or osteopathy services provided to the patient.
- (e) In seeking informed consent in the case of children, take care in relation to kin and cultural beliefs, so that the right person is approached for consent.

3.6 Professional Boundaries

A professional-patient relationship is an unequal relationship and a registrant/provider is responsible for establishing and maintaining professional boundaries with his/her patients. A registrant/provider is in a position of power because of the knowledge he/she holds and the patient's need for that knowledge. In order to ensure a trusting relationship a registrant/provider must not misuse or abuse the position of power by crossing boundaries. The crossing of boundaries has multiple dimensions that include sexual misconduct, physical abuse, financial abuse, dual relationships, breaches of confidentiality, inappropriate acceptance of gifts and inappropriate self-disclosure. The professional relationship between a registrant/provider and patient relies on trust and on the assumption that a registrant/provider will act in the best interests of the patient. In order to maintain healthy trusting professional relationships a registrant/provider must ensure his/her own competence, integrity and dependability.

A registrant/provider shall:

- (a) Behave ethically at all times and maintain professional boundaries with the patient, the patient's immediately family and significant others.
- (b) Be mindful at all times of the varying vulnerability of the patient and the imbalance of power in the professional relationship. A patient is often vulnerable, especially when his/her health care necessitates revealing himself/herself intimately to a health professional, physically or emotionally.
- (c) Seek appropriate advice and/or counselling on recognition of the potential for professional boundary violations by either the registrant/provider or the patient, and if necessary transfer the patient to another registrant/provider for continuing and future health needs.
- (d) Seek appropriate advice and/or counselling prior to entering into a relationship with a former patient or someone with whom the patient has a significant personal relationship.
- (e) Avoid as much as possible the establishment of dual relationships with his/her patient, and if this is not possible ensure mechanisms are established to avoid prejudicial practices.

- (f) Carefully consider the implications of giving gifts to, and accepting gifts from, his/her patients. A registrant/provider is reminded that it is an offence under Section 57 of the Act to give, offer or accept a benefit for referral or recommendation.
- (g) Be aware of the warning signs that indicate professional boundaries are being crossed. Such warning signs include self-disclosure of information of a personal nature; flirtatious or overt sexual content interactions with a patient; spending time with a patient outside of working hours; and a patient requesting or receiving non-urgent appointments at unusual hours, especially when other staff are not present.
- (h) Be aware of the factors that may increase the likelihood of him/her breaching professional boundaries. These include stressors in the registrant/provider's personal life; breakdown of personal relationships; drug and or alcohol abuse; mental illness and professional isolation.

A registrant/provider shall not:

- (i) Exploit a trust relationship with a patient. Initiation and/or consent by the patient in the case of economic, personal and/or sexual behaviour between a registrant/provider and a patient is not an excuse. Any exploitation of the relationship between the patient and registrant/provider for the gratification or benefit of the registrant/provider is an abuse of power. For example, a registrant/provider must not:
 - (i) use his/her position to establish improper personal relationships with a patient, the patient's immediate family and significant others;
 - (ii) put pressure on his/her patient to give or lend money or to provide other benefits to him/her;
 - (iii) put pressure on his/her patients to enter into an economic venture or investment scheme with him/her. There may be a detrimental effect on a professional relationship with a patient if therapeutic and financial aspects in a relationship between a registrant/provider and a patient are combined.
- (j) Engage in a personal relationship or sexual behaviour with a current patient, or someone with whom the patient has a significant personal relationship. A sexual or improper personal relationship, even if the patient is a consenting adult, may cloud the registrant/provider's judgement and make him or her less objective, which may in turn, result in the quality of care and service the registrant/provider provides for the patient being compromised. A registrant/provider must not, for example:
 - (i) have sexual intercourse with a patient;
 - (ii) initiate any form of sexual conduct in the patient's presence;
 - (iii) make any inappropriate physical contact with a patient;
 - (iv) make sexual proposals to a patient;
 - (v) make unnecessary comments about a patient's body or clothing;
 - (vi) tell a patient of his/her own sexual problems, desires, practices, preferences or fantasies;

- (vii) show disrespect of a patient's sexual orientation;
- (viii) make sexually suggestive comments or innuendo to a patient.
- (k) Disclose information of a personal or intimate nature to his/her patient including, for example, details of his or her life, or personal crises or sexual desires or practices.

3.7 Conflict of Interest

A conflict of interest arises when a registrant/provider has a relationship or interest that could be seen as improperly influencing his/her professional judgement or ability to act in the best interests of the patient. Conflicts may present in different ways and if identified, whether they are real or perceived, need to be addressed.

A registrant/provider shall:

- (a) Make every effort to avoid dual relationships (eg. treatment of his/her own family or friends) that could impair his/her judgement or increase the risk of exploitation.
- (b) Only provide professional services to family and friends if there is full disclosure of all potential issues to all involved stakeholders. A thorough and objective consultation must occur.
- (c) In situations where dual relationships are impossible to avoid (eg. in rural and remote areas), take particular care to ensure that the professional and personal relationships are clearly delineated. In such a situation, a registrant/provider is advised to seek guidance and supervision.
- (d) Be familiar with the provisions of Sections 56, 57, 58, 59 and 61 of the Act.

A registrant/provider shall not:

- (e) Allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound professional judgement and skill.
- (f) Become involved in fraudulent or unethical activity related to his/her professional practice.

3.8 Use of Titles

The use of any title or designation is an effective method of quickly imparting considerable information about an individual to others. It immediately allows the audience to identify the common roles or activities and characteristics about that title. Titles may be attributed to an individual through a variety of mechanisms, some earned through training or education (eg. professional credentials) and others as a result of a position held (eg. a job title such as case manager).

(a) Courtesy Title – “Doctor”/“Dr”

The title “Doctor”/“Dr” must only be used in a manner which clearly associates its use with the practice of chiropractic or osteopathy (eg. Dr J Smith – Chiropractor).

(b) Protected Title

One of the central elements of the Chiropractic and Osteopathy Practice Act 2005 (SA) is the protection of title.

Title protection as part of the regulation of a profession is one mechanism used to help the public readily identify those individuals who are registered with the Board and are subsequently accountable for the delivery of chiropractic or osteopathy which meets the established standards of the profession

The principle purpose for protection of title is to prevent confusion or misrepresentation to the public. Based on that understanding, it is important to recognise that the use of a title or designation is only a small part of the broader issue of how one represents oneself to others.

In South Australia, with some exemptions for registered physiotherapists, titles (or prescribed words) such as:

- registered chiropractic student
- registered osteopathy student
- chiropractor
- osteopath
- manipulative therapist
- spinal therapist
- subluxation
- spinal manipulation
- spinal adjustment
- spinal specialist
- manipulative specialist

are reserved for individuals registered with the Board.

(Refer to Sections 34 and 36 of the Act, and General Regulation 7.)

(c) Interpretations of Title Use

Other than registered chiropractors or osteopaths, there are some individuals in associated roles that are involved in providing chiropractic and osteopathy services to the public. It is important that the public clearly recognise the relationship of these individuals with the registrant.

(i) *Students*

A chiropractic or osteopathy student, under the supervision of a chiropractor or osteopath, must identify himself or herself as a chiropractic student or osteopathy student. This immediately identifies the student role to the public. (Refer to the Board's "Guidelines for Fieldwork Programs in South Australia" which are available from the Board's office or website: www.cbsa.saboard.com.au / publications / fieldwork guidelines.)

In accordance with subsections 26 (a) and (b) of the Act and General Regulation 7, registration on the chiropractic or osteopathy student registers authorises the person to provide chiropractic or osteopathy under the supervision of a chiropractor or osteopath.

(ii) *Assistants*

Although the Board does not have any jurisdiction over support personnel, there is concern about how a registrant/provider assigns his/her work in order to ensure that safe, high quality care is provided to his/her patients. The title "Assistant" may be used when service has been assigned to an assistant who is supervised by a chiropractor or osteopath. This title relates the role as one of assisting and attaches accountability to a professional person (chiropractor or osteopath) rather than a program or profession (chiropractic or osteopathy). (Refer to the Board's "Policy for Registered Chiropractors & Osteopaths re: Assistants in Chiropractic or Osteopathy Practice" which is available from the Board's office or website: www.cbsa.saboard.com.au / publications / other guidelines / policies.)

(iii) *Limited or Conditional Registration*

A person whose registration is limited or subject to a condition under the Act must not hold himself or herself out as having registration that is not limited or not subject to a condition or permit another person to do so (refer Section 35 of the Act).

(d) Specialty or other Designations

Chiropractic and osteopathy as professions in South Australia do not have formal specialty areas. The Board provides registration certificates for general practice, reflective of the common knowledge and skills of chiropractic or osteopathy.

While there are clearly distinct areas of practice such as sports injuries or paediatrics in chiropractic and osteopathy, a process to establish specialty certification/registration does not exist under the Act.

A registrant must not include credentials, or initials for such, after his/her name that would suggest specialisation. It is suitable however to make a statement about an area of special interest or additional training, eg. rather than stating “Sports Chiropractor” it would be appropriate to state “chiropractor with training and expertise in sports injuries”.

Similarly, terms or abbreviations used after a registrant’s name such as memberships of professional associations are not permitted as members of the public would not understand these abbreviations, and could be misled into believing the registrant has formal additional qualifications. These terms must be used in full, eg:

- Member of Chiropractors’ Association of Australia (not MCAA)

(e) Use of other University Degrees (not indicating specialisation)

Not uncommonly, a registrant may have pursued post-graduate degrees outside chiropractic or osteopathy such as an M Ed, or an MBA. These conferred degrees, obtained at a University level, can be used by a registrant after his/her name in addition to the chiropractic or osteopathy degree, provided the additional qualifications are entered on the Register of Chiropractors or Register of Osteopaths. Applications to have additional qualifications on the appropriate Register must be made to the Board with the prescribed fee.

(f) Job Titles

Recent trends toward interdisciplinary approaches to service delivery have contributed to the use of a large variety of job titles, often shared by individuals from different professions and sometimes specific to the organisation. Job titles do not replace nor do they preclude the use of a professional designation. What remains important is the clear and appropriate representation. A registrant should consider the audience and determine the most appropriate means of portraying his/her role to the patient.

(g) Misuse of Title

Title protection is critical to a regulation model that certifies providers through title registration. The Board takes seriously its role to safeguard public interest by ensuring that only qualified and competent registrants use the title granted on registration.

The misuse of title most frequently occurs when an individual who is not a registrant uses a title or practises in a manner which would lead a member of the public to reasonably presume that he/she is registered with the Board.

All cases brought to the attention of the Registrar are investigated. Penalties for proven misuse of title bring a maximum penalty of \$50,000 or imprisonment for 6 months, and penalties for practising chiropractic or osteopathy unregistered carry a maximum penalty of \$50,000 or imprisonment for 6 months.

(Refer to Sections 34, 35, 36 and 37 of the Act.)

3.9 Keeping of Records

A registrant/provider's duty of care requires the maintenance of records associated with the care of a patient. Adequate records are essential to enable proper management of a patient by the registrant/provider and possibly his/her successor. In addition, the registrant/provider might be called upon to produce appropriate patient records during legal proceedings.

A registrant/provider is responsible for the content of the record related to the chiropractic or osteopathy service. The record must reflect the registrant/provider's professional analysis and/or opinion, intervention and recommendations.

(a) Types of Records

Patient records are those clinical notes and supporting documentation maintained by a registrant/provider on his/her patients. Any reference to patient records encompasses health information in any form, including paper, electronic, visual (x-rays, CT scans, videos and photos) and audio records. Patient records should meet the Board's requirements as set out at point (c) Maintenance of Records. In addition, electronic records should be capable of being printed on paper when required or being reproduced electronically in a form readily understood.

(b) Privacy Principles

A registrant/provider shall comply with the relevant privacy principles. Those in the private sector must comply with the National Privacy Principles as contained in *Schedule 3 of the Privacy Act 1988 (Commonwealth)* ("NPPs"). A registrant in the public sector is to comply with the Department of Health's Code of Fair Information Practice, which is based on, and mirrors, the NPPs.

A registrant/provider is advised to familiarise himself/herself with the key principles of the NPPs, or where applicable, the Code of Fair Information Practice, particularly in relation to the following matters:

- The purpose and manner of collecting personal information;
- The use and disclosure of personal information collected;
- The requirement to take reasonable steps to ensure the personal information collected, used or disclosed is accurate, complete and up-to-date;
- The requirement to take reasonable steps to protect personal information held from misuse and loss and from unauthorised access, modification or disclosure;
- The requirement to adopt a policy of openness, transparency and accountability for the management of personal information collected;
- The requirement to give access to the personal information held on request, and the need to take reasonable steps to correct personal information if it is found to be inaccurate, incomplete, misleading or not up-to-date;
- The requirement to limit the use of identifiers that government agencies

have assigned to an individual;

- The requirement to give an individual, wherever it is lawful and practicable, the option of not identifying himself/herself when his/her personal information is collected;
- The requirement to take reasonable steps to maintain the security and protect the privacy of personal information if it is transferred to a third party; and
- The requirement to limit, wherever possible, the collection of sensitive information about individuals.

A registrant/provider can access the NPPs from the website of the Office of the Privacy Commissioner: www.privacy.gov.au/.

The Code of Fair Information Practice can be accessed from the Department of Health's website: www.health.sa.gov.au

(c) Maintenance of Records

Competent chiropractic and osteopathy practice demands that adequate patient records covering history, working diagnosis/diagnosis and care of the patient by the registrant/provider be created and maintained.

A registrant/provider shall:

- (1) Keep records and reports clearly, concisely, accurately and objectively for the information of professional colleagues, for legal purposes and to record plans and interventions for patients.
- (2) For initial and ongoing consultations ensure that patient records contain the following:
 - (i) The patient's medical/health history, including the presenting complaint, if appropriate.
 - (ii) The practitioner's initial and any subsequent examination of the patient and the findings.
 - (iii) Assessment of the patient and the patient's chiropractic or osteopathic working diagnosis/diagnosis and any changes to that assessment from time to time.
 - (iv) The proposed care goals and management plan and any modifications.
 - (v) The care given to the patient on each occasion.
 - (vi) The patient's response to the care, both subjective and objective.
 - (vii) Any referrals made or other care, strategies or advice recommended or given to the patient.
 - (viii) Documented evidence of consent obtained for care.
- (3) Initial any changes to paper records and changes should be made in such

a way as to make the previous entry visible. Computerised records must be established in such a way that, for every entry to the record, there is a record of when the entry was made, by whom and when changes were made and an adequate back-up kept.

A registrant/provider shall not:

- (4) Record terms or abbreviations that are derogatory or emotive.
- (5) Record abbreviations or 'short hand' expressions that are not recognisable and comprehensive within the context of the patient's care.

(d) Retention of Records

Although there is no legislation to specify how long patient records are to be maintained, it is recommended from a practical perspective, adult records should be retained for at least seven (7) years after the last treatment of a patient by the registrant/provider, and child records until the person is 25 years of age.

A registrant in the public sector should be aware that official records made or received by a public agency in the conduct of its business will form part of an official record under the State Records Act 1997 (SA). Destruction (or disposal) of an official record may only be carried out in accordance with a determination made by the Manager of State Records with the approval of the State Records Council.

(e) Destruction of Records

A person shall not destroy, deface or damage a patient record with intent to evade or frustrate the operation of the Privacy Act 1988 (Cth), or other relevant legislation.

Where it is appropriate to destroy patient records, a registrant/provider must ensure that it is done so as to maintain confidentiality.

(f) Ownership of Records

A registrant/provider in private practice own the records created in that practice.

In a group practice, the right of ownership of records will depend on the terms and conditions of the form of partnership or association. Records created by an employee or a locum remain the property of the employing registrant/provider or group.

(g) Right of Access to Records

The right to access personal information is a very important privacy right. The NPPs (available from the Office of the Privacy Commissioner's website: www.privacy.gov.au) provide a patient with a right of access to his/her personal information held by a private sector registrant/provider. Where a government agency has in its possession or under its control records or personal information of a patient, he or she may have access to those records in accordance with the Freedom of Information Act 1991 (SA) ("FOI Act") (available at the website: www.legislation.sa.gov.au).

Ways in which a patient may gain access to his/her personal information include:

- inspecting the record (if held in electronic form, by way of a print out);
- by receiving a copy of the record; or
- by viewing the record and having its contents explained by the registrant/provider holding the record or by another suitably qualified professional.

There is a limited number of exemptions to this general right of access to records, thus a registrant/provider should familiarise himself/herself with the relevant exceptions as outlined in the NPPs, or where applicable, the FOI Act.

(h) Transfer of Records

When a patient changes a registrant/provider the Board requires that, on the written request of the patient, at least a summary of the patient record maintained by the first registrant/provider be transferred to the second registrant/provider.

A registrant/provider must therefore ensure that a sufficient health history is made available on request and with consent to any subsequent treating registrant/provider, thus ensuring the continued good management of the patient.

(i) Medico-Legal Reports

Reports prepared for third parties (on the consent of the patient), such as those prepared for medico-legal or insurance purposes, are the property of the party for whom they were prepared. A registrant/provider who holds copies of such reports has no right to release them to a patient without consent of the person requesting the report.

(j) Costs of Access to Records

The Board accepts that reasonable charges sufficient to meet the costs of researching and documenting information sought on patient records, may be charged to patients or their legally authorised agents for the provision of such information. However, it should be noted that the NPPs (governing the cost of access in the private sector) provide that such a charge must not be excessive and must not apply to lodging a request for such information or access. For cost of access to records held in the public sector see the Freedom of Information (Fees and Charges) Regulations 2003 (SA).

(k) Death or Retirement of a Registrant/Provider

A sole registrant/provider shall make appropriate provisions for the storage, transfer or sale of records upon his/her retirement and termination of business and as a contingency in the event of his/her untimely death.

A registrant/provider in partnership with other registrants/providers should ensure that he/she has a detailed formal written agreement at the time of entering into the partnership addressing the issues likely to be encountered, including the division or transfer of records, upon the dissolution of the partnership, or upon the retirement or death of one partner.

To ensure continuity of care, a registrant/provider shall make appropriate provisions to inform patients of the registrant/provider to which his/her records, if held, will be or have been transferred in the aforementioned situations.

NOTE:

- (i) The Freedom of Information Act 1991 (SA) relates to access to records held by State Government agencies.
- (ii) A registrant/provider who fails to provide a copy of the health record (including x-rays) where a request has been made by a patient under the provisions of the Privacy Act (1988) (Cth) (and no exemption exists) will be considered by the Board to be acting unprofessionally.
- (iii) If a registrant/provider's policy is that only copy x-rays are released to patients, then patients must be advised of this from the outset.

3.10 Care Plans

A Care Plan describes a recommended course of patient management, and as a minimum must outline the reasons for care (from History and Examination findings), the aims of care, the parameters used to re-evaluate progress, and the time-frame of care.

Care Plans are to be based on clinical and patient history findings and are not regarded as financial plans.

A Care Plan will be required whenever entering into a pre-paid financial arrangement.

- (a) A Care Plan should be used:
 - (i) when requested by a patient or third-party payer;
 - (ii) whenever a pre-paid financial arrangement is used;
 - (iii) when the registrant/provider believes it is clinically indicated.
- (b) Care Plans must:
 - (i) be in writing;
 - (ii) be signed by the registrant/provider and the patient, and a copy given to patient;
 - (iii) be presented by the registrant/provider without the use of intimidation or coercion;
 - (iv) not be misleading, false, or deceptive.
- (c) The registrant/provider should take steps to ensure that the patient clearly understands the nature of the agreement contained within the Care Plan. Outcomes should not be promised.
- (d) Care Plans should address the patient's stated reasons for seeking chiropractic or osteopathic care. If the patient's purpose for seeking care includes symptomatic factors, the Care Plan should address these as well as other relevant clinical findings and document agreed goals of care.
- (e) Care Plans should separate Initial Intensive/Symptomatic, Reconstructive/Corrective, and Maintenance phases of care.

For each phase, the patient should be given an indication of:

- (i) the chiropractic or osteopathic working diagnosis/diagnosis (or abnormal chiropractic or osteopathic structural findings) relevant to that phase of care;
- (ii) the proposed management;
- (iii) the objectives of this phase of care;
- (iv) the estimated time-frames to achieve these objectives.

For the Maintenance phase of care, a written explanation of the objectives or goals of maintenance care is sufficient.

Appendix III includes an example of how this may be presented.

- (f) Care Plans may include recommendations for a maximum time-frame of three (3) months. An exception may apply to maintenance care (refer 3.10(g)).

The patient should be re-evaluated at the end of this period, or sooner if clinically indicated, to assess the need for further care and use of a new Care Plan.

If the registrant's clinical experience suggests that a time-frame in excess of three months may be required for the patient's care, then the registrant should inform the patient of an *estimate* of that time-frame, and that recommendations for care will be made in 3-month (maximum) blocks, following re-evaluation of the patient's progress.

- (g) For patients in the Maintenance phase of care, Care Plans may be recommended for a maximum of three (3) months or twelve (12) visits, whichever is greater.

A clinical re-evaluation of the patient should still be performed on a regular basis as clinically indicated.

- (h) A Care Plan should be based on the total patient presentation and x-ray findings and not on x-ray findings alone.

3.11 Financial Plans

Financial Plans are pre-paid financial arrangements normally used by a registrant/provider to offer a discount in fees payable by the patient or to facilitate a bulk payment for services.

Financial Plans are separate to Care Plans and separate documentation must be maintained.

A registrant/provider using pre-paid financial arrangements shall:

- (a) Provide the patient with a written copy of the financial plan, signed by both the patient and the registrant/provider, and keep a copy of the plan for his/her own records.
- (b) Provide patients with a separate Care Plan as outlined in Section 3.10.
- (c) Ensure that the patient:
- (i) is allowed to withdraw from care at any time;
 - (ii) receives full refund of payments not used;
 - (iii) receives a full written and verbal explanation of the terms of the financial arrangement.
- (d) Either:
- (i) offer a "pay as you go" arrangement as an alternative;
- OR**
- (ii) actively assist those patients not wishing to undertake a pre-paid arrangement by providing referrals to other local registrants without delay.

- (e) If using pre-paid arrangements exclusively, inform the patient of these arrangements during his/her first visit.
- (f) Ensure the financial plan includes a full disclosure of all of the terms and conditions of the pre-paid financial arrangement, including the terms of any refunds applicable should the patient withdraw from the arrangement.

3.12 Use of X-Rays

Radiographic imaging is an integral part of the diagnostic procedures offered by a chiropractor or osteopath. Practitioners use radiography for several purposes – eg.: Identifying biomechanical segmental deviations, pathology or contraindications for care; confirmation of working diagnosis/diagnosis, appropriateness for care or modifying factors which would affect the selection of appropriate management and adjusting techniques.

Indications for x-ray must be clear and based upon clinical history and examination findings where the results of such imaging will assist in the working diagnosis/diagnosis and management of the patient.

Routine x-ray screening of patients without relevant clinical indications is inappropriate. A registrant/provider must consider whether the potential benefit outweighs the risks of ionising radiation. A patient should never be exposed to unnecessary radiation.

Patient protection should be optimised through careful choice of exposure parameters and by using available dose reducing mechanisms such as filtration devices where possible.

A registrant/provider should consider the use of radiographic imaging whenever a radiographic red flag is suspected. Potential radiographic red flag situations include:

- Progressive neurological signs and symptom
- Suspected tumour/pathology
- Infection
- Age greater than 50 years
- Trauma
- Other

Discussion must ensue in relation to the need for, and nature of the recommended x-rays, and informed consent must be obtained. In the case of minors or the mentally incompetent, consent must be obtained from a parent or legal guardian.

A registrant/provider needs to show a strong clinical indication for x-rays of children prior to irradiating. Strong clinical indications may include:

- Idiopathic scoliosis
- Suspected development of congenital defects
- Marked locomotor disturbances of the spine and pelvis
- Suspicion of pathology
- Significant trauma

Re-evaluation of biomechanical or postural disorders using x-ray needs to be carefully considered on an individual case basis, and not performed routinely. Only those views crucial to the re-assessment process should be used. A full x-ray series is rarely required for re-evaluation.

Consideration of other re-evaluation tools should be made and the benefit/risk ratio of further radiation exposure should be assessed before performing x-ray evaluation for biomechanical/postural purposes.

4. CAUSES FOR DISCIPLINARY ACTION

Pursuant to Section 40 of the Act:

- “(1) There is proper cause for disciplinary action against a registered person if –
- (a) the person’s registration was improperly obtained; or
 - (b) the person is guilty of unprofessional conduct; or
 - (c) the person is for any reason no longer a fit and proper person to be registered on the appropriate register.
- (2) There is proper cause for disciplinary action against a chiropractic or osteopathy services provider if –
- (a) the provider has contravened or failed to comply with a provision of this Act; or
 - (b) there has been, in connection with the provision of chiropractic or osteopathy by the provider, a contravention or failure to comply with a code of conduct under this Act applying to the provider; or
 - (c) the provider or any person employed or engaged by the provider has, in connection with the provision of chiropractic or osteopathy by the provider, engaged in conduct that would, if the person were a registered person, constitute unprofessional conduct; or
 - (d) the provider is for any reason not a fit and proper person to be a chiropractic or osteopathy services provider; or
 - (e) in the case of a corporate or trustee chiropractic or osteopathy services provider, an occupier of a position of authority in the provider -
 - (i) has contravened or failed to comply with a provision of this Act; or
 - (ii) has, in connection with the provision of chiropractic or osteopathy by the provider, engaged in conduct that would, if the person were a registered person, constitute unprofessional conduct; or
 - (iii) is for any reason not a fit and proper person to occupy a position of authority in a corporate or trustee chiropractic or osteopathy services provider.
- (3) There is proper cause for disciplinary action against the occupier of a position of authority in a corporate or trustee chiropractic or osteopathy services provider if-
- (a) the person has contravened or failed to comply with a provision of this Act; or
 - (b) the person has, in connection with the provision of chiropractic or osteopathy by the provider, engaged in conduct that would, if the person were a registered person, constitute unprofessional conduct; or
 - (c) the person is for any reason not a fit and proper person to occupy a position of authority in a corporate or trustee chiropractic or osteopathy

- services provider; or
- (d) —
- (i) the provider has contravened or failed to comply with a provision of this Act; or
 - (ii) there has been, in connection with the provision of chiropractic or osteopathy by the provider, a contravention or failure to comply with a code of conduct under this Act applying to the provider; or
 - (iii) the provider, or any person employed or engaged by the provider, has, in connection with the provision of chiropractic or osteopathy by the provider, engaged in conduct that would, if the provider or the person were a registered person, constitute unprofessional conduct,
- unless it is proved that the person could not, by the exercise of reasonable care, have prevented the contravention, failure to comply or conduct.”

The Board uses the following case law as a guide to the meaning of the term “fit and proper”:

Sobey v Commercial and Private Agents Board (1979)
22 SASR 70, at page 76 per Walters J:

“The issue whether an appellant has shown himself to be a fit and proper person within the meaning of section 16(1) of the Act is not capable of being stated with any degree of precision. But for the purposes of the case under appeal, I think all that I need to say is that, in my opinion, what is meant by that expression is that an applicant must show not only that he is possessed of a requisite knowledge of the duties and responsibilities devolving upon him as the holder of a particular licence under the Act, but also that he is possessed of sufficient moral integrity and rectitude of character as to permit him to be safely accredited to the public, without further inquiry, as a person to be entrusted with the sort of work to which the licence entails. The burden clearly lay upon the appellant to satisfy the board of his fitness and propriety to hold the licences for which he applied.”

Fitness and propriety of a person relates to knowledge, competency, honesty, moral integrity, ability and character.

Medical fitness of a practitioner is treated separately under the Act and an application to the Board to inquire into the matter can only be made by the Registrar, Minister or a representative body.

Note:

Given that unprofessional conduct includes a contravention of, or failure to comply with, a provision of the Act, it is the responsibility of the registrant and provider to fully acquaint himself/herself with the relevant provisions of the Act in relation to offences (also refer to information under “Offences” on the Board’s website).

5. GLOSSARY OF TERMS

The following definitions are intended to clarify the Board's interpretation of the following commonly-used terms and provide some additional context for their use in this document.

5.1 Accountability

A registrant/provider is responsible for his/her actions and has an obligation to account for and explain his/her actions.

5.2 Chiropractic

Chiropractic means:

- (a) restricted therapy; and
- (b) all diagnostic, therapeutic, health or other services or advice not referred to in paragraph (a) provided in the course of practice by a chiropractor or a person who holds himself or herself out, or is held out by another, as a chiropractor.

(Also see "Physical Therapy" and "Restricted Therapy".)

5.3 Common Law

Common law is the body of law evolved through the practice of English Courts. It is law made by Judges (also known as precedent law) as distinct from law laid down by Acts or Statutes (Parliament made law). An Act overrules the common law if both apply in the same area.

5.4 Competence

A complex interaction and integration of knowledge, skills and professional behaviours and judgement. It embodies the ability to generalise or transfer and apply skills and knowledge from one situation to another.

5.5 Confidentiality

A registrant/provider has a responsibility to respect, secure and protect the privacy of personal and sensitive information about his/her patients, subject to any legal requirement to the contrary.

5.6 Cultural Respect

Cultural respect is the recognition, protection and continued advancement of the inherent rights, cultures and traditions of Aboriginal and Torres Strait Islander people.

5.7 Ethics

Ethics is the science of moral principles. In a professional context ethics relates to moral behaviour in a professional capacity.

5.8 Incompetence

Incompetence is the professional care of a patient that displays a lack of knowledge, skill or judgement or disregard for the welfare of the patient of a nature or to an extent that demonstrates that the registrant/provider is unfit to continue to practise or that the registrant/provider's practice should be restricted.

5.9 Informed Consent

In order for a patient to give permission to proceed with an agreed course of action a registrant/provider has a duty to explain, as far as may be practicable and reasonable in the circumstances:

- the nature, consequences and risks of the proposed care;
- the likely consequences of not undertaking the care;
- any alternative care or courses of action that might reasonably be considered.

5.10 Integrity

Within the context of the professional-patient relationship, it is important to the patient that he/she believes that the registrant/provider is acting with integrity.

Honesty with and respect for the patient form the basis of integrity within the professional-patient relationship. This means that patients are regarded as active and valued participants within the professional-patient relationship.

5.11 Osteopathy

Osteopathy means:

- (a) restricted therapy; and
- (b) all diagnostic, therapeutic, health or other services or advice not referred to in paragraph (a) provided in the course of practice by an osteopath or a person who holds himself or herself out, or is held out by another, as an osteopath.

(Also see "Physical Therapy" and "Restricted Therapy".)

5.12 Patient

The patient is the individual who is receiving chiropractic or osteopathy. It is the patient to whom the registrant/provider has a primary duty to apply the principles of practice.

5.13 Patient's Rights

In general a patient has three major rights:

- the right to decide whether or not to undergo care, after receiving a reasonable explanation of what the care involves and the risks associated with the care;
- the right to be treated with reasonable care and skill by a registrant/provider;
- the right to confidentiality of information about medical conditions and care.

(Also refer to the principles to be considered in the development of the Charter of Health and Community Services Rights under the Health and Community Services Complaints Act 2004 (SA), Part 3 – Section 22, and the Charter itself when developed.)

5.14 Physical Therapy

Physical treatment applied to the human body for the purpose of preventing, curing or alleviating any abnormality of movement or posture or any other sign associated with physical disability.

5.15 Power Imbalance

The knowledge that a registrant/provider possesses about health care conditions and other private information about the patient, and the need of the patient for professional services, combined with the registrant/provider's ability to recommend or deny various treatments, places a registrant/provider in a position of power. As a recognised professional, a registrant/provider should be aware of the power imbalance between himself/herself and his/her patients.

5.16 Provider

A chiropractic or osteopathy services provider means a person (not being a chiropractor or osteopath) who provides chiropractic or osteopathy through the instrumentality of a chiropractor, osteopath, chiropractic student or osteopathy student but does not include an exempt provider.

An exempt provider includes a recognised hospital, incorporated health centre or private hospital within the meaning of the South Australian Health Commission Act 1976 (SA) until 1 July 2008, and an incorporated hospital or private hospital under the Health Care Act 2008 (SA) thereafter, or any other person declared by the General Regulations to be an exempt provider.

A person who is not a chiropractor or osteopath will, unless exempted by the General Regulations, be taken to provide chiropractic or osteopathy through the instrumentality of a chiropractor or osteopath if that person, in the course of carrying on a business, provides services to the chiropractor or osteopath for which the person is entitled to receive a share in the profits or income of the chiropractor's or osteopath's practise of chiropractic or osteopathy.

A provider also includes a corporate or trustee chiropractic or osteopathy services provider.

- (a) *A corporate chiropractic or osteopathy services provider* is a chiropractic or osteopathy services provider that is a body corporate and a person occupies a position of authority in such a provider if the person:
 - (i) is a director of the body corporate; or
 - (ii) exercises, or is in a position to exercise, control or substantial influence over the body corporate in the conduct of its affairs; or
 - (iii) manages, or is to manage, the business of the body corporate that consists of the provision of chiropractic or osteopathy; or
 - (iv) where the body corporate is a proprietary company – is a shareholder in the body corporate.
- (b) *A trustee chiropractic or osteopathy services provider* is a person acting as a chiropractic or osteopathy services provider in the capacity of trustee of a trust and a person occupies a position of authority in such a provider if the person is a trustee or beneficiary of the trust.

5.17 Registrant

A chiropractor, osteopath, chiropractic student or osteopathy student registered by the Chiropractic & Osteopathy Board of South Australia.

5.18 Respect for Professional Boundaries

Setting and observing professional boundaries by the registrant/provider is critical to ensure the trust the patient places in the registrant/provider is not betrayed. A registrant/provider must exercise good judgement in order to manage professional boundaries. Violation of these boundaries is an abuse of power.

5.19 Restricted Therapy

Physical therapy consisting of or involving:

- (a) the manipulation or adjustment of the spinal column or joints of the human body involving a manoeuvre during which a joint is carried beyond its normal physiological range of motion; or
- (b) any other therapy declared by the General Regulations to be restricted therapy.

5.20 Transparency

Transparent practice requires full disclosure and clear, open and thorough communication. Transparent practice contributes to the registrant/provider's integrity.

5.21 Trust

Trust is a firm belief in the reliability and truth of something. In a professional relationship it is a confidence in the knowledge, skills, abilities, behaviour and judgement of the professional. It is the patient's trust in the registrant/provider's professionalism that automatically accords power.

5.22 Unprofessional Conduct in a Private Capacity

Improper conduct in a private capacity may also be held to be unprofessional conduct. Duggan J in *Reyes v Dental Board of SA* 83 SASR 551 per the Supreme Court of South Australia held:

“(1) The ambit of unprofessional conduct is not restricted to acts or omissions occurring in the direct performance of professional tasks or duties. It includes:

- (a) acts sufficiently closely connected with actual practice; and
- (b) conduct outside the course of practice which manifests the presence or absence of qualities which are incompatible with, or essential for, the conduct of practice.

New South Wales Bar Association v Cummins (2001) 52 NSWLR 279, applied.

Ziems v Prothonotary of Supreme Court of NSW (1957) 97 CLR 279; *Raylance v General Medical Council* (2000) 1 AC 311, referred to.

(2) The important consideration is the actual conduct which has been proved and whether such conduct establishes that the person is unfit to remain a member of his or her profession.”

(Also refer to definition in Introduction.)

**EXTRACT FROM “CULTURAL RESPECT FRAMEWORK FOR ABORIGINAL AND
TORRES STRAIT ISLANDER HEALTH 2004 – 2009”**

2.3 The Principles

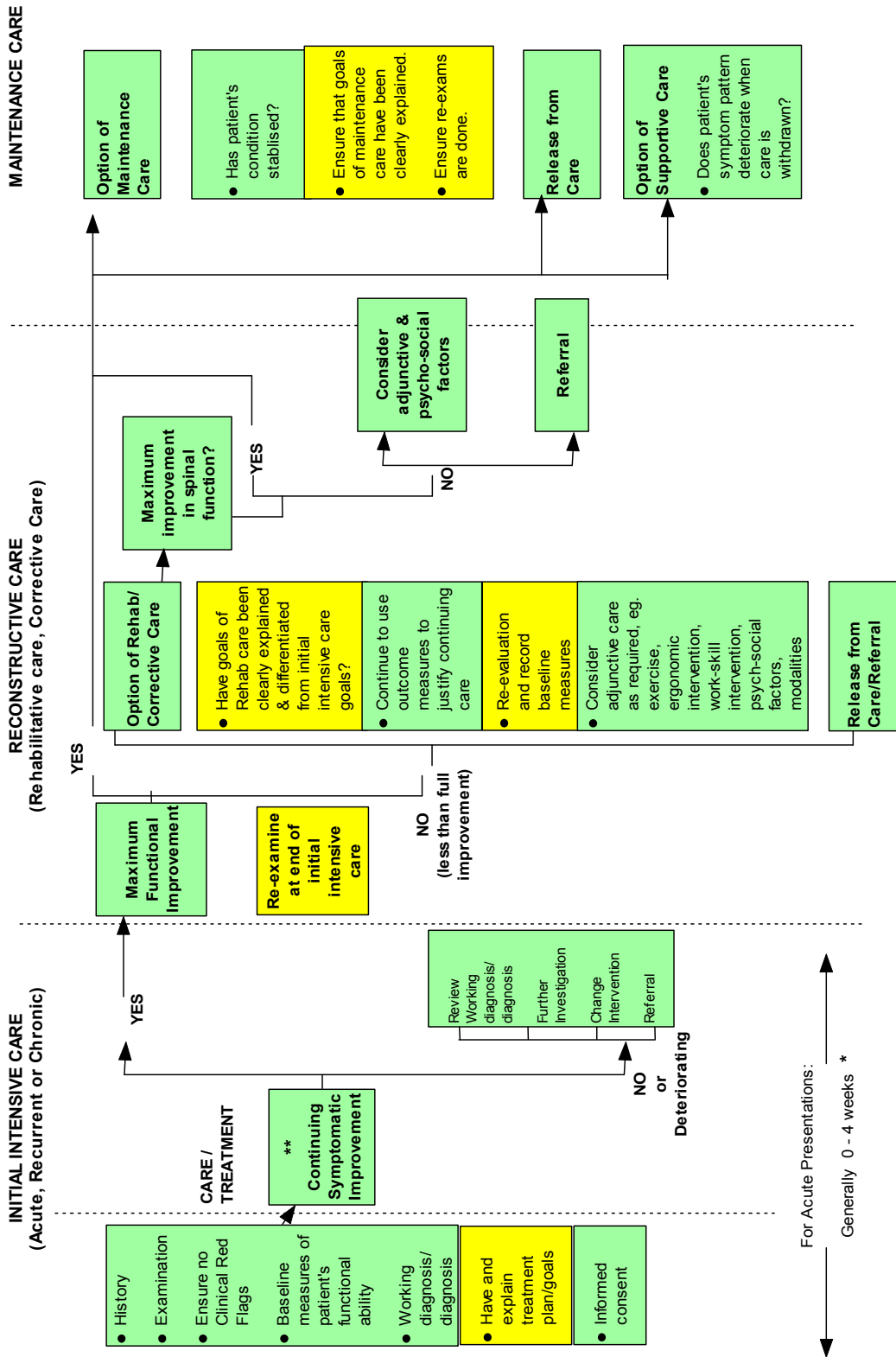
The Cultural Respect Framework recognises the following principles which are consistent with the National Aboriginal and Torres Strait Islander Health Strategy and the *Aboriginal and Torres Strait Islander Health Workforce National Strategic Framework 2002*.

- **A holistic approach:** recognising that the improvement of Aboriginal and Torres Strait Islander health status must include attention to physical, spiritual, cultural, emotional and social wellbeing, community capacity and governance.
- **Health sector responsibility:** improving the health of Aboriginal and Torres Strait Islander individuals and communities is a core responsibility and a high priority for the whole of the health sector. Making all services responsive to the needs of Aboriginal and Torres Strait Islander peoples will provide greater choice in the services they are able to use.
- **Community control of primary health care services:** supporting the Aboriginal community controlled health sector in recognition of its demonstrated effectiveness in providing appropriate and accessible health services to a range of Aboriginal communities and its role as a major provider within the comprehensive primary health care context. Supporting community decision-making, participation and control as a fundamental component of the health system that ensures health services for Aboriginal and Torres Strait Islander peoples are provided in a holistic and culturally sensitive way.
- **Working together:** combining the efforts of government, non-government and private organisations within and outside the health sector, including areas of employment, education and housing, and in partnership with the Aboriginal and Torres Strait Islander health sector, provides the best opportunity to improve the broader determinants of health.
- **Localised decision-making:** health authorities devolving decision-making capacity to local Aboriginal and Torres Strait Islander communities to define their health needs and priorities and arrange for them to be met in a culturally appropriate way in collaboration with Aboriginal and Torres Strait Islander specific and mainstream health services.
- **Promoting good health:** recognising that health promotion and illness prevention is a fundamental component of comprehensive primary health care and must be a core activity for specific and mainstream health services.
- **Building the capacity of health services and communities:** strengthening health services and building community expertise to respond to health needs and take responsibility for health outcomes. This includes effectively equipping staff with appropriate cultural knowledge and clinical expertise, building physical, human and intellectual infrastructure, and fostering leadership, governance and financial management.

- **Accountability for health outcomes:** recognising that accountability is reciprocal and includes accountability for health outcomes and effective use of funds by community controlled and mainstream services to governments and communities. Governments are accountable for effective resource application through long-term funding and meaningful planning and service development in genuine partnership with communities.

The full text of the 'Cultural Respect Framework for Aboriginal and Torres Strait Islander Health 2004-2009' can be accessed through the Department of Health's website: www.health.sa.gov.au/publications/planning.

CLINICAL JUSTIFICATION FLOW CHART



NOTE: (a) If a patient's treatment objectives include symptomatic relief and the practitioner practises only corrective care, an appropriate referral must be made to address the patient's needs.

(b) Wellness Care includes all three phases of care as above.

* This is an expected time frame and in some cases there may be variations.

** This does not apply 1) where there is an asymptomatic presentation and the patient enters directly into corrective care or maintenance care; or 2) if the patient's agreed goal of care is structural improvement and not symptom-related.

CHIROPRACTIC & OSTEOPATHY BOARD OF SOUTH AUSTRALIA

CLINICAL JUSTIFICATION - GLOSSARY OF TERMS

Acute:
Describes a condition that has been present for less than three months.

Baseline Measures of a Patient's Functional Ability:
Baseline measures are required so as to assess change and improvement in the patient's condition and functional ability. These measures are required to assess the patient's response and progress in relation to the provided care.

Measures used can be divided into Subjective and Objective findings. Subjective measures are based on the patient's perception, eg. descriptions of symptoms and his/her ability to perform activities of daily living (ADLs). A wide variety of questionnaires with good reliability and validity are now available.

Objective measures include physical examination tests (eg. flexibility, range of motion, strength), neurological, and orthopaedic tests and radiological assessment.

Chronic:
Describes a condition that has been present for longer than three months.

Working Diagnosis:
A working hypothesis formulated from clinical impressions from the patient's history and physical findings.

Clinical Justification:
The ability to justify and demonstrate that the intended care will be substantially helpful, appropriate and necessary. Clinical justification is required for care to continue. Consideration must also be given as to whether other forms of care could assist with better outcomes.

Clinical Red Flags:
Refers to clinical features suggestive of serious conditions, eg:

- cauda equina (bowel/bladder disturbance, bilateral radicular signs);

- tumor (constant unremitting pain, especially at night, weight-loss);
- myelopathy (cord pressure – bilateral sensory/motor disturbances);
- infections (fever, intravenous drug use);
- fractures (trauma, osteoporosis (gibbous), chronic corticosteroid use);
- vascular (stroke eg. ataxia, diplopia, dysarthria, dysphagia, neural disturbances);
- unexplained thoracic pain (visceral referral);

When a Red Flag is present the practitioner should consider whether chiropractic care is contraindicated and the patient should be referred, or whether chiropractic care may commence with extreme caution and careful attention to informed consent.

Corrective Care:
A specific type of Reconstructive Care in which the primary aim is correction of variations from the normal postural spinal curves or vertical axis.

Diagnosis:
A diagnosis is the identification of a disease or condition (including abnormal chiropractic or osteopathic structural findings) from the patient's history and physical findings.

Initial Intensive Care:
The provision of care at the onset of a new patient presentation or the re-aggravation of a previous injury (recurrent). Patient presentations are usually symptomatic and require several visits over a short period of time.

Outcome Measures:
These are measures or tools used to assess change in a patient's symptomatic presentation and/or functional ability over time. Examples:
Objective -

- Range of motion (eg. manual, goniometer),
- muscle strength (eg. manual, dynamometer),
- x-ray findings

Subjective -
Pain (eg. VAS – Visual Analogue Scale, 0-10 numerical rating scale, Oswestry, Neck Disability Index, SF-36 Health Survey)

Maintenance Care:

Maintenance Care commences when a patient and practitioner agree that previously set clinical goals are being met. Re-assessment of future clinical goals needs to be considered along with a reduced frequency of care to continue to maximise spinal function.

Psycho-Social Factors (Yellow Flags):

Yellow flags indicate psychosocial barriers to recovery, and may increase the risk of chronicity, eg:

- belief that pain and activity are harmful (activity avoidance);
- sickness behaviours (extended rest, hypochondriasis, neurosis, catastrophising);
- social withdrawal, low or negative moods;
- signs of depression (eg. sleep disturbance, frustration, anger, anxiety);
- claim & compensation problems;
- problems at work, poor job satisfaction.

Reconstructive Care:

Ongoing treatment beyond the Initial Intensive Care phase for patients with longer term spinal dysfunction. Throughout this phase of care the patient should be achieving continuing improvement in spinal function as demonstrated by changes in Outcome Measures.

Supportive Care:

Treatment for a patient who has reached maximum improvement, but who fails to sustain this improvement and progressively deteriorates when treatment is withdrawn.

Wellness Care:

The delivery of health care and promotion that facilitates and empowers awareness and action towards a balanced and optimal state of health, lifestyle and existence. Wellness Care includes intensive/symptomatic care, reconstructive/corrective care and maintenance care.

CARE PHASE	WORKING DIAGNOSIS/ DIAGNOSIS **	PROPOSED MANAGEMENT	OBJECTIVES OF CARE	ESTIMATED TIME FRAME	PROPOSED REVIEW DATE
Initial Intensive/ Symptomatic	1. - Cervical subluxation/Injury * - Moderate ↓ Cervical ROM - Cervical muscle spasm 2. Lumbo-pelvic subluxation/ injury * - Leg length inequality → Lumbar scoliosis 3. Pronation	Full-spine adjustments Soft-tissue techniques/ stretching Orthoses/Exercises Visits 3x/week for 3 weeks	↓ muscle spasm ↑ Cervical ROM ↓ pain Cervical & Lumbar ↑ activities of daily living	3 – 4 weeks	4 weeks
Reconstructive/ Corrective	-15° Cervical curve (27°) Lumbo-pelvic unlevelling & Right Short Leg	Spinal adjustments CBP protocols (to restore cervical lordosis): - mirror image adjustments - Cervical traction - mirror image exercises Heel lift/ build-up on orthoses if required after initial phase of care Visits protocol/frequency	Restoration of Cervical curve to normal lordosis (approx. 42°) Further ↓ neck pain & ↑ in Cervical ROM Level pelvis in standing position Further ↓ LBP	6 months	12 weeks (new plan if required)
Maintenance	Maintain improvement in Lumbar & Cervical postures Maintain full spinal mobility with spinal adjustments Ongoing care to help maximise spinal & nervous system function				12 months or as required

Signed: Practitioner..... Date.....

Patient..... Date.....

* should be level or tissue specific if possible

** associated or complicating factors could be included as well as confirmation of investigative results