

Australian Capital Territory

Health Professionals (ACT Chiropractors and Osteopaths Board Standards Statements) Approval 2007 (No 1)*

Notifiable instrument NI2007-1

made under the

Health Professionals Regulation 2004, Section 134 (Standard's Statement)

1. Name of instrument

This instrument is the *Health Professionals (ACT Chiropractors and Osteopaths Board Standards Statements) Approval 2007 (No 1)*.

2. Commencement

This instrument commences on the day after notification.

3. Standards Statements

In accordance with Regulation 134 (3) of the *Health Professionals Regulation 2004* the ACT Chiropractors and Osteopaths Board has approved the following Standards Statements.

President
20 December 2006

*Name amended under Legislation Act, s 60

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENTS

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Standards Statements issued by the ACT Chiropractors and Osteopaths Board are designed to raise awareness of the standard of practice required from a registered chiropractor or osteopath to be competent to practise, or to help the practitioner improve his or her suitability to practise. The information contained in these statements are to be used as a guideline for chiropractors and osteopaths to follow and reflects the interpretation of the *Health Professionals Act 2004* by the Board. Non-adherence or breach of the statements may be grounds for a finding of a breach of the Act.

Disclaimer

In the case of any conflict or discrepancy between this document and Act, the Act prevails.

PREFACE

The ACT Chiropractors and Osteopaths Board has developed a number of standards statements to guide practitioners on professional, legal and ethical issues. The Board believes that these standards reflect the high standards of care expected of practitioners in the ACT. The legislation governing practice in the Territory is the *Health Professionals Act 2004*. In the case of any conflict or discrepancy between the standards statements and Act, the Act prevails.

The Board intends to review the standards statements regularly and add new policy statements as they are developed.

Comments about the policies would be welcomed and should be directed to the Board's Executive Officer or Registrar.

Members of the Board hope you will find these statements useful.

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

1. Standards of Practice for ACT Allied Health Professionals

The Board endorses the Standards of Practice for Allied Health Professionals ACT Health September 2004 published in May 2005 – Publication No 05/0471 (2000). Chiropractors and osteopaths are required to comply with the standards of practice included in that publication.

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

2. ADVERTISING

Advertising by chiropractors and osteopaths is permitted. Such advertising should not:

- (i) be false,
- (ii) misleading, or likely to mislead,
- (iii) be deceptive, or likely to deceive,
- (iv) be harmful,
- (v) claim or imply that any particular chiropractor or osteopath is superior to any other,
- (vi) be likely to bring the profession into disrepute.

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

3 CODE OF CONDUCT

1. GENERAL

- (a) All chiropractors and osteopaths should recognise and uphold their professional responsibilities and obligations to their patients, to the community, to their colleagues, and to the profession.
- (b) In this context, the following Code of Practice shall guide the professional behavior of all chiropractors and osteopaths.
- (c) A registered chiropractor or osteopath shall not practise under a name other than the name under which they are registered.
- (d) A registered chiropractor or osteopath shall not hold himself or herself out as possessing any professional qualifications, which he or she does not hold.
- (e) A chiropractor or osteopath shall not permit a person employed or engaged by them to provide or offer to provide a chiropractic or osteopathic service unless that person is a registered chiropractor or osteopath.

2. THE OBLIGATIONS OF CHIROPRACTORS AND OSTEOPATHS TOWARDS THEIR PATIENTS

- (a) Chiropractors and osteopaths shall practise their profession conscientiously and to the best of their ability.
- (b) The needs of their patients should be of paramount concern to chiropractors and osteopaths. In their dealings with patients, discussion of fees should be in a manner appropriate to the professional relationship.
- (c) Chiropractors and osteopaths shall maintain confidential any information pertaining to patients which has been acquired through their professional relationship, except where the law demands otherwise or a patient's prior consent to release of information is given. Chiropractors and osteopaths shall also require any administration staff to do likewise.
- (d) Chiropractors and osteopaths shall maintain accurate records of the assessment and treatment of their patients and retain such records for the statutory period.
- (e) Chiropractors and osteopaths should treat anyone who asks except under exceptional circumstances such as Except in emergencies, or where they would be failing in their duties on humanitarian grounds, chiropractors and osteopaths have the right to decline to treat a patient for professional or personal reasons.
- (f) Chiropractors and osteopaths should recognise that patients are entitled to consult any chiropractor or osteopath and to change their chiropractor or osteopath at will, even during the course of treatment.
- (g) A chiropractor or osteopath should supervise the work of all personnel in their employment or under their control, and should not delegate any service, treatment or operation, which is not in keeping with the Act or the person's training and ability.

3. CONDUCT OF CHIROPRACTORS AND OSTEOPATHS TOWARDS THE PUBLIC

- (a) Chiropractors and osteopaths shall behave in all circumstances, both within and outside their professional life, in a manner that will not bring the profession into disrepute.

4. RELATIONSHIP OF CHIROPRACTORS AND OSTEOPATHS WITH THEIR COLLEAGUES

- (a) When chiropractors or osteopaths are called in as consultants, their primary obligation is to give their considered and honest opinion. They should also be willing to help a colleague if their advice or assistance is sought, provided the colleague is acting within the Code of Practice.
- (b) Chiropractors and osteopaths shall not criticise a colleague's opinion, treatment or fees. Where a patient seeks an opinion from a chiropractor or osteopath with or without reference to his usual chiropractor or osteopath, the chiropractor or osteopath consulted should not say anything likely to disturb the patient's confidence in that chiropractor or osteopath.
- (c) Chiropractors and osteopaths shall not solicit their colleague's patients.

5. THE PRACTICE OF THE PROFESSION

- (a) Chiropractors and osteopaths shall uphold the fundamental rights of the profession, including the freedom to prescribe and treat and the principle of the free choice of practitioner by the patient. Whatever the circumstances of their practice they shall not abrogate their professional independence and responsibility.
- (b) Chiropractors and osteopaths have a responsibility to maintain their professional knowledge and practice at an acceptable level of competency (see Standards Paper 4 associated with Continuing Professional Development)
- (c) In their patient's interest, chiropractors and osteopaths should be prepared to refer to suitably qualified colleagues those patients who require advice and treatment, which they consider beyond their competence.
- (d) Chiropractors and osteopaths have a responsibility to their patients to hold full professional indemnity insurance – to a level stipulated in Notifiable Instrument...(\$10million minimum)
- (e) It is the obligation of chiropractor or osteopath engaging a locum tenants to ensure that such persons are duly registered with the Board.
- (f) Chiropractors and osteopaths must not employ or work with an individual whom they know or suspect to be practicing in breach of the Act and/or the Code of Practice.
- (g) Chiropractors and osteopaths shall at all times avoid false certification and misleading statements in respect of their profession.
- (h) Chiropractors and osteopaths shall not represent, in a false or misleading manner, the care being rendered to their patients or fees being charged for providing such care.

6. ADVERTISING

- (a) Advertising by chiropractors and osteopaths is permitted. Such advertising should not:
 - (j) be false,

- (ii) misleading, or likely to mislead,
- (iii) be deceptive, or likely to deceive,
- (iv) be harmful,
- (v) claim or imply that any particular chiropractor or osteopath is superior to any other,
- (vi) be likely to bring the profession into disrepute.

7. BREACH OF RULES

- (a) All rules of the Code of Practice shall be observed by chiropractors and osteopaths at all times and failure to do so will be dealt with by the Board in accordance with the powers conferred upon it.
- (b) Chiropractors and osteopaths must provide all reasonable assistance including the provision of records, radiographs, photographs, study models, and relevant correspondence to the Board, Professional Standards Panel, the Health Service Commissioner and/or the Health Professions Tribunal or any other body investigating complaints against chiropractors or osteopaths.
- (c) The Code of Practice cannot provide for all ethical dilemmas that may arise in the course of practicing chiropractic or osteopathy. Chiropractors and osteopaths shall exercise discretion in any situation not covered and act in the best interests of the patient and the profession.
- (d) Chiropractors and osteopaths should at all times act in good faith in the observation of the spirit rather than the literal interpretation of the Code of Practice.

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

4 Continuing Professional Development

1. General

The Board has introduced a code of Continuing Professional Development (CPD). For the purposes of this policy, CPD will be defined as study, training, courses, seminars, reading and various other activities that could reasonably be expected to advance professional development as a chiropractor or osteopath. It is the means by which members of the profession can maintain, improve and broaden their knowledge and skills and develop the personal qualities required in their professional lives.

It is in the public's interest that the profession's members maintain and develop their professional knowledge and skills throughout the life of their practise.

It is not the intention of the Board to be completely prescriptive as to which activities registrants may attend. It is hoped that registrants will exercise their professional judgement as to which activities are appropriate however, any activities that are attended as part of this program are expected to be relevant to the chiropractor and osteopath, with the aim of providing competent and safe care.

2. Scope

This code applies to all chiropractors and osteopaths who are registered to practise in the ACT. Exceptions and conditions to this code may be granted to registrants who are in training or who have temporarily ceased practise. In the case of the latter group, evidence of recency of practice and of CPD will be required for re-instatement to the register. New registrants, who have not been subject to CPD requirement previously will be required to undertake activities on a pro-rata basis to the nearest half-year. CPD activities undertaken by registrants in different jurisdictions will be recognized if acceptable to that jurisdiction.

3. Requirements

All registrants covered by the Act and its regulations will be required to participate in a CPD program. Each registrant will be required to maintain a log of activities in which they have participated. Each year, the registrant will be required to sign a statutory declaration to the effect that they are satisfying the requirements of the program. The Board may request a statement of CPD activities for the year at any time. The Board may request the full CPD records of the registrant (including documentary proof for verifiable activities). Failure to provide adequate or requested proof of CPD may incur suspension or an inquiry by the Board. In the case of a formal inquiry by the Board into a registrant's practise, the CPD history will be examined and taken into account.

The CPD program will be conducted in 2-year cycles. The Board has determined that

both chiropractors and osteopaths must satisfy the requirements of one of the three main professional associations eg. The Australian Osteopathic Association (AOA), Chiropractors Association of Australia (CAA) and the Chiropractic Osteopathic College of Australasia (COCA). Membership of one of these associations IS NOT required to fulfill that requirement.

4. Acceptable CPD Activities

Activities that would count towards CPD would include:

- Courses and lectures;
- Vocational training on general professional training study days;
- Educational parts of professional and specialist society meetings;
- Peer-review and clinical audits;
- Attendance at study group meetings (requires verification);
- Multimedia learning (for example, web-based learning, CD-ROM);
- Staff training;
- Educational workshops at conferences;
- Reading journals;
- Preparation and delivering of a lecture to chiropractors or osteopaths; and
- Private study including reading chiropractic or osteopathic texts.

Courses and lectures will be acceptable when given by:

- Accredited tertiary institutions;
- Professional associations;
- Societies officially affiliated with professional associations;
- Recognised study groups;
- AOA, CAA and COCA; and
- Other bodies acceptable to the Board.

5. Logbooks – not required if member of an association/or being recorded by one – but recommended anyway?

Each registrant will be required to maintain a logbook of CPD activities that they attend. A record should be kept of:

- Date of activity;
- Title or subject matter;
- Venue (if applicable);
- Body organising the activity (if applicable);
- Whether or not the activity is verifiable; and
- The number of hours spent at the activity.

6. Interruption to Practice

Where a registrant takes time off from practise, they will still be expected to maintain CPD Activities. To re-register, it will be necessary for the registrant to satisfy the Board that they have maintained their professional knowledge and competence through CPD attendance.

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

5. Professional Standards Panel

GENERAL

1. From time to time, the Chiropractors and Osteopaths Board receives reports from members of the public concerning the professional activities of registered chiropractors and osteopaths. The *Health Professionals Act 2004* and the *Health Professionals Regulation 2004* outline the range of actions available to the Board when faced with complaints. Enquiries are also received regarding the procedure for lodging such complaints, as well as the scope of the Board's powers in considering and determining the complaints.

AIM

2. This policy paper details the Boards policy and guidelines on the establishment and activities of a professional standards panel.

LEGISLATION

3. The establishment and composition of professional standards panels, and the procedural requirements of inquiries held by professional standards panels are specified in the *Health Professionals Act 2004* Sections 106 through 124.

ROLE AND COMPOSITION

4. A professional standards panel decides if a chiropractor or osteopath is contravening or has contravened the required standard of practice or does not satisfy the suitability to practice requirements. In making their assessment, the panel *may* consider any information available to it such as:
 - a) The report or complaint
 - b) Any information provided by the Health Complaints Commissioner or person who made the report or complaint
 - c) Any other relevant information given to the panel but *must* consider any information provided by the chiropractor and osteopath.
5. A professional standards panel is made up of at least three (3) members appointed by the Chiropractor and Osteopaths Board, at least two (2) of who are either a chiropractor or osteopath registered in the ACT. In addition, at least one member of the panel must not be a registered chiropractor or osteopath. The Board will appoint one member of the panel as the chairperson.
6. Section 109 of *The Health Professionals Act 2004* requires that the Board must refer an application, or part of an application to a professional standards panel if required to do so by the Health Professions Tribunal, and that the panel must conduct an inquiry into the application as if it were a report. Following its inquiry, the panel must give a *referral report* to the health professions tribunal about the application.

THE CONDUCT OF INQUIRIES

7. If a report or inquiry is referred to a professional standards panel and the chiropractor or osteopath makes an admission about something mentioned in the report, and the panel is satisfied that it is appropriate to make a decision about the report or complaint without an inquiry, the panel may choose not to inquire.
8. Where the panel chooses to hold an inquiry, the panel must set a time and place for the *standards inquiry*, and give at least one month's written notice to the chiropractor and osteopath, the Chiropractors and Osteopaths Board, the Health Services Commissioner and the complainant.
9. Whilst observing natural justice, the panel may conduct a standards inquiry in any way the panel considers appropriate. The inquiry should be conducted with as little formality and technicality and as much expedition as permits proper consideration of the matters before the panel. Informality, however, is not to be construed as foregoing safeguards. As a consequence, a standards inquiry is conducted in such a way as to give assurance that the panel is not motivated by any desire to deal with the matter in any way other than in a manner which requires an objective appraisal of the facts and compliance with public duty and responsibility.
10. Whilst not bound by rules of evidence, this does not mean that the panel will not, where possible, apply those rules. The professional standards panel will always be guided by the rules of evidence in its admission of evidence at an inquiry, particularly where the principle underlying the rules of evidence offers clear guidance as to how the panel should inform itself of the facts.

In relation to the rules of evidence, the following should be noted:

- Whilst generally following the rules of evidence, the panel may not always accept into evidence all materials which a party attempts to put before it. The overriding principles in assessing the admission of evidence are, its value to the panel, its relevance to the issue before the panel and whether it is the best evidence available on the issue.
- The panel may act on evidence not disclosed to the parties. The panel may inform itself, however, of its own motion on matters relevant to the issue(s) to be decided, subject to allowing the parties the opportunity of questioning and putting submissions to the panel.
- Any matter on which a party proposes to contradict a witness's evidence, should be put to that witness in order to permit the witness to explain any contradiction.
- Failure of a party to call evidence in support of its case from a witness who is presumably available or whose absence is not explained, may permit the panel to draw the inference that such evidence would not have advanced the party's case.
- There is no reason why the panel cannot admit relevant evidence that is

hearsay in nature. The weight the panel would give to such evidence, however, must not be as great as the weight given to first hand evidence.

- The panel may take into account proper documentary evidence (eg. conviction for a criminal offence) but should permit the party affected by the evidence to test it by cross examination. They may do this by calling their own evidence on the issue or the tender of other relevant documentary or oral evidence of the circumstances surrounding the criminal conviction.
 - As a general proposition, the panel cannot take into account in reaching its decision, any fact that has not been brought to the attention of the parties to the Inquiry. The panel may rely, however, on its own expert knowledge in relation to deciding an issue within its area of expertise where this reliance would not deprive a party of the opportunity to lead evidence or make submissions on that issue.
11. In conducting a standards inquiry, the professional standards panel may make inquiries and obtain information from any source the panel considers appropriate to decide whether a chiropractor or osteopath is contravening or has contravened the required standard of practice or does satisfy the suitability to practice requirements. The panel may arrange for a performance review of the chiropractor or osteopath and consider patterns of practice.
 12. The Health Services Commissioner may give evidence about an assessment or investigation by the Commissioner, but may also be present even if not giving evidence.
 13. Standards Inquiries are usually closed but the professional standards panel may hold the inquiry in public if satisfied that the public benefit of an open inquiry outweighs the disadvantage to the chiropractor or osteopath..
 14. The chiropractor or osteopath, the Commissioner and witnesses attending a standards inquiry may be accompanied by a legal advisor or other support person.
 15. The professional standards panel must keep an electronic or written record of a standards inquiry.
 16. Following a standards inquiry the professional standards panel must decide whether the chiropractor or osteopath is contravening, or has contravened, the required standard of practice or does not satisfy the required suitability to practice requirements or is putting, or has put, public safety at risk. The decision of the professional standards panel is a decision of the majority of panel members. If, for any reason, a panel cannot reach a majority decision, the decision of the chairperson is the decision of the panel.
 17. If the professional standards panel finds against a chiropractor or osteopath, the panel may do one (1) or more of the following:
 - Counsel, caution or reprimand the chiropractor or osteopath;
 - Require the chiropractor or osteopath to undergo stated medical, psychiatric or psychological assessment, counseling or both;
 - Impose on the chiropractor or osteopaths registration a condition that the panel considers appropriate to protect the public;

- Require the chiropractor or osteopath to take part in a review of his or her professional practice;
 - Require the chiropractor or osteopath to complete a stated educational or other stated professional development course;
 - Require the chiropractor or osteopath to report on their professional practice at stated times, in the way stated and to a named person;
 - Require the chiropractor or osteopath to seek and take advice from stated entities in relation to the management of their practice;
 - Require the supervision, monitoring or reporting about the effect of something the chiropractor or osteopath is required to do by the panel;
 - Refer the report, complaint or application for condition review, along with the standards inquiry report to the health professions tribunal;
 - Accept a stated voluntary undertaking by the chiropractor or osteopath.
18. Prior to completion of a standards inquiry, the professional standards panel may take interim actions in relation to a chiropractor or osteopath, if satisfied that it is necessary to take action to protect the public. The panel may take any of the actions outlined above in 17. other than to counsel, caution or reprimand the chiropractor or osteopath. Such interim actions have effect only until a decision is made by the panel at the end of the inquiry.
19. As soon as practical following the completion of a standards inquiry, the professional standards panel must prepare a written report that includes:
- a) If the standards inquiry found that the chiropractor or osteopath is contravening, or has contravened the required standard of practice – how the standard is being, or was contravened;
 - b) If the standards inquiry found that the chiropractor or osteopath does not satisfy the suitability to practice requirements – which suitability to practice requirement is not satisfied;
 - c) Whether there is, or was, a risk to the public from the chiropractor or osteopath and, if there is or was, what the risk is or was;
 - d) The action taken by the panel and the reasons for the action.
20. Within 28 days of the completion of a standards inquiry, the standards inquiry report must be given to the chiropractor or osteopath, the Chiropractor and Osteopaths Board and the Health Services Commissioner. The professional standards panel may give the report to anyone else but may omit material if the panel considers it appropriate to do so to protect someone's confidentiality.
21. A standards inquiry report must be published. If, however, the professional standards panel is satisfied that the public interest is not served by including all material, the panel may omit some material, including the name of the chiropractor or osteopaths, from the published report. The panel may also publish a summary of the report in a more easily read form.
22. A chiropractor or osteopath may apply for a review of a decision by the professional standards panel to the Health professions tribunal

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

6 VISITING CHIROPRACTORS & OSTEOPATHS

GENERAL

1. The ACT Chiropractors & Osteopaths Board (the Board) is established under section 24 of the *Health Professionals Act 2004* (the Act). The Board is empowered under the Act to register chiropractors & osteopaths and regulate the practice of chiropractic and osteopathy in the ACT. The primary responsibility of the Board is to protect the public.

AIM

2. This paper details the Board's policy on chiropractors and osteopaths visiting the ACT. The Act allows the Minister to exempt persons from registration by signing a disallowable instrument. This standard applies when such an instrument is signed.

SPORTING TEAM

3. Chiropractors & Osteopaths who are working with a sporting team visiting the ACT, but who are not registered within the ACT, may continue to work on members of that team, and that team only.

4. Chiropractors & Osteopaths who are employed to work at a national sporting event to be held in the ACT must be registered within the ACT. They may then work with any persons presenting themselves for treatment, regardless of the state of origin of that person.

TRAINING ACTIVITIES

5. Chiropractors & Osteopaths who are visiting the ACT, but who are not registered within the ACT, may attend training activities but must not practise chiropractic or osteopathy on any person who is not a participant in the training event.

INSURANCE

6. Chiropractors & Osteopaths who are visiting the ACT in accordance with paras 3 to 5 of this Standard, but who are not registered within the ACT, must be covered by insurance for any practice that is undertaken.

ACT CHIROPRACTORS & OSTEOPATHS BOARD

STANDARDS STATEMENT

7 SPINAL MANIPULATION

GENERAL

Spinal manipulation is defined as the rapid application of force whether by manual or mechanical means to any part of a person's body that affects a joint or segment of the vertebral column. Only practitioners who have successfully completed the relevant accredited training may conduct spinal manipulation.

AIM

To ensure public safety through ensuring good professional judgement is exercised and quality care is provided by restricting the practise of spinal manipulation to registered Chiropractors, Osteopaths, Medical Practitioners and Physiotherapists. Suitably trained members of These health professions are nationally and internationally recognised as having the appropriate training, knowledge and skills to conduct spinal manipulation.

BACKGROUND

Studies on spinal manipulation suggest that the rate of serious complication of spinal manipulation are rare and ranges from 1 incident for every 400,000 to 2 million treatments by qualified practitioners.

The Board is aware that prevention of complications from any health care treatment is facilitated when good professional judgement is exercised and quality care is provided. It would follow that improper adjusting techniques are a major risk factor of spinal manipulation and the greatest contraindication to manipulation is lack of training and skill of the person performing the procedure.

POLICY

A person must not engage in spinal manipulation in the course of providing a health service unless the person:

- a) Has completed an accredited course in spinal manipulation;
- b) Is a registered chiropractor, or a chiropractic student acting under the direct supervision of a registered chiropractor in the course of the student's training and instruction for a qualification as a chiropractor, or
- c) Is a registered osteopath, or an osteopathy student acting under the direct supervision of a registered osteopath in the course of the student's training and instruction for a qualification as a osteopath, or
- d) Is a registered medical practitioner, or a medical student under the direct supervision of a registered medical practitioner, or
- e) Is a registered physiotherapist, or a physiotherapy student under the direct supervision of a registered physiotherapist in the course of the student's training and instruction for a qualification as a physiotherapist.