Submission to the Australian Health Ministers Advisory Council on options for regulation of unregistered health practitioners

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AMT is a national, not-for-profit association representing qualified Massage Therapists and Massage Therapy Students. Established in 1966, we are the oldest association in Australia to represent massage therapy in its own right. We advocate vigorously on behalf of our members to advance the profile and standing of massage therapists, and promote the health benefits of massage therapy.

AMT is deeply committed to the safe and ethical practice of massage therapy in Australia.

Vision:
Our vision is to establish massage therapy as an allied health profession in Australia.

Mission:
Our mission is to:
- support our members
- professionalise the industry
- educate and inform the public and other health professionals.

AMT Values:
- **Best practice:** we support our members to deliver evidence based, skilled, ethical and professional treatment
- **Participation:** we encourage our members to connect with and contribute to their professional community
- **Innovation:** we have set the agenda for industry advocacy since 1966
- **Governance:** we operate to the highest standards of transparency and accountability
- **Client focus:** we place quality and safety at the centre of all we do

EXECUTIVE SUMMARY

Existing regulatory mechanisms for health services provided by unregistered health practitioners do not adequately address issues of public health and safety. AMT's position is that further public protection is required to address the gaps in the current regulatory framework.

AMT supports a national approach to regulation of health services, regardless of whether the service is being provided by a registered health practitioner or a self-regulating practitioner.

Any proposed regulatory framework for unregistered health practitioners should serve COAG's National Partnership Agreement for a seamless national economy. This means that the framework should not be jurisdictionally based and administered. This may have implications for the current role that the HCCC plays in administering the Health Care Complaints Act 1993, though AMT notes that the HCCC has retained its powers in respect of registered health practitioners in spite of the implementation of the National Registration and Accreditation Scheme and the establishment of AHPRA.

AMT's position is that a national statutory framework is required for unregistered health practitioners to ensure adequate and consistent public protection across the entire Australian healthcare system. However, a negative licensing model such as the Option 3 Statutory Code of Conduct will only address some of the problems articulated in the AHMAC consultation paper.

AMT believes that additional measures such as protection of title and barriers to entry are required. Additionally, greater government support and recognition of the existing self-regulatory functions that the various representative bodies currently perform can only enhance the operation of a statutory code.

Scope for emerging professions such as massage therapy to institute and promote a Statutory Code of Practice would address the manifold need for health-service-specific consumer protections. AMT asserts that this is the most appropriate option for emerging professions that do not meet the IGA criteria for statutory registration or warrant this level of regulation but whose specific scope carries attendant specific risks that a generic Code of Conduct does not adequately address.

AMT supports the idea of extending AHPRA's current functions to encompass a regulatory framework for unregistered health practitioners. This would allow for greater consistency in the monitoring of all health services, regardless of whether the service is being provided by a registered or self-regulating practitioner. It would also enable the establishment of a 'one-stop-shop' or portal for consumers to access information. This would be an effective way to address potential public confusion around the kinds of protections available to them. Given that any proposed regulatory framework will only be effective if there is extensive promotion and public education, establishing a one-stop-shop would also enhance the capacity to promote clear, transparent and seamless disciplinary mechanisms across the entire healthcare sector.

A consultation draft of AMT's Massage Therapy Code of Practice has been included as an Appendix with this submission. AMT would seek to have this Code endorsed by the Health Ministers to support efforts to establish appropriate regulatory protections for the practice of massage therapy in Australia.

SCOPE

- **Can you provide an estimate of the number of unregistered health practitioners you believe to be practising in your profession or field?**

It is notoriously difficult to definitively establish how many massage therapists are currently practising across Australia. Australian Bureau of Statistics and health fund claims data can only give a partial picture of the numbers. The major associations represent approximately 18,000 massage therapists between them, although there would be significant overlap arising from dual memberships.

It is even more difficult to estimate how many massage therapists are operating under the radar, that is, outside the imprimatur of representative bodies such as AMT. We would estimate, however, that there are over 30,000 practitioners practising massage therapy across Australia.

RISKS

- **What do you think are the risks associated with the provision of health services by unregistered health practitioners?**

The risks involved in the provision of health services by unregistered health practitioners are intimately connected to the nature of the service being provided. AMT does not believe that it is practical or helpful to generalise across the incredibly broad spectrum of practices that are covered under the umbrella of services provided by all unregistered health practitioners. We would need to carefully consider any proposed national regulatory scheme that does not recognise massage therapy as a discrete service with particular contextual risks.

There is a range of specific risks connected to the provision of massage therapy. These risks are not necessarily the same as the risks associated with other practices such as homeopathy, naturopathy, counseling or colon therapy, for example.

The most significant potential risks to public safety in relation to the provision of massage therapy services arise from professional boundary issues and violations. This includes problems that occur out of a failure to work within scope and training, misuse or abuse of the therapeutic relationship, and sexual assault. The greater percentage of both informal and formal complaints that AMT receives relate to possible sexual assault.

In terms of the 13 types of procedure or activity that have been articulated in Appendix 8 of the AHMAC consultation paper (*adapted from the Regulated Health Professions Act 1991* Ontario), the two that relate specifically to the provision of massage therapy are numbers 12 and 13, namely:

12. Treatment that commonly occurs without any other persons present.
13. Treatment that commonly requires patients to disrobe.

AMT is in the process of releasing a consultation draft of a Code of Practice for Massage Therapists. This document articulates a specific scope and minimum professional standards for the practice of massage therapy in Australia.

The aim is to provide a benchmark for professional practice and a risk management framework for preventing issues that may arise in the massage therapy clinical context. It is also intended to educate the public and other health professionals on what standards to expect in the safe and ethical practice of massage therapy.

This document has been included with this submission in Appendix A. AMT asks AHMAC to seriously consider a proposal to develop, articulate and endorse a specific national Code of Practice for massage therapists.

- **To what extent have the risks associated with these activities been realised in practice?**

AMT receives, on average, one formal complaint per annum that results in extensive investigation and disciplinary action. AMT has also been called upon once in the last two years to provide an expert witness statement to the police in relation to an alleged sexual assault.

We are aware that cases often bypass the Association and go directly to criminal investigation and proceedings.

We also receive a handful of informal complaints every year. Many of these relate to services provided by therapists who are not members of AMT so we take an advisory role and provide information about what avenues of complaint and action are available to the public. Depending on the seriousness of the complaint, this may mean referring the complainant to the police, another representative body or, within NSW, to the HCCC.

Over the past 5 years, AMT has only received one formal complaint about the clinical skills of a member (on investigation, this turned out to be vexatious). The largest proportion of complaints relate to alleged sexual assault.

- **Do you know of instances of actual harm or injury?**

The actual harm or injury usually relates to psychological damage rather than physical injury or harm.

However, professional indemnity insurance claims data in relation to massage therapists has demonstrated that physical harm can arise out of therapists working outside their scope of practice, which strongly supports the need to educate and inform therapists and the public in this area.

- **What evidence is available on the nature, frequency and severity of risks?**

The professional associations hold data on formal complaints against members.

Data from the HCCC, especially since the introduction of the NSW Code of Conduct, would certainly help to characterise the nature of the risk, if not the frequency and severity. Obviously, under-reporting is a significant factor across all sectors of healthcare.

Indemnity insurance claims data would also provide a useful indicator of the nature of the risks.

- **What factors increase or reduce the risk that individuals will suffer harm as a result of the activities of unregistered health practitioners?**

In relation to massage therapy, increased risks arise from the following:

1. Lack of protection of title – anyone can claim they are a massage therapist or that they are providing massage services. For example, the sex industry makes liberal use of the term "massage" although AMT is not aware that the NSW Code of Conduct applies to the services that sex workers provide.

This leaves the public potentially vulnerable to inappropriate, suspect or bogus practices supplied by unqualified practitioners.

2. Lack of barriers to entry - there is a large number of therapists working in the margins who may not be qualified at all or are under-qualified. These practitioners operate outside the imprimatur of professional associations and therefore do not perceive themselves as accountable under any codes of conduct.
   Moreover, this class of therapists is unlikely to be aware of the existing statutory obligations that apply to their practice (privacy laws, for example).
3. Lack of peer networks - the vast majority of practising massage therapists are sole traders, working essentially unsupervised and with no formal requirement for supervision or mentoring. The associations work hard to address this risk via CPD programs and regional networks but participation in these programs can be patchy.
4. The nature of the therapeutic relationship - massage therapists work one-on-one with their clients who are usually partially disrobed and therefore extremely vulnerable.
   This increases the risk of the power imbalance being misused, misunderstood or abused by the therapist.
5. The lack of adequate disciplinary protections - massage therapists who have been sanctioned by one disciplinary authority, body or association can currently move seamlessly between jurisdictions and/or organisations and continue to practice without interruption.

Reduced risks are associated with the following:

1. Treatment by properly educated and qualified therapists who are aware of their statutory obligations and work within their scope of practice.
2. Greater public awareness of what to expect in terms of safe and ethical treatment, and appropriate standards of practice.
3. Disciplinary mechanisms that allow for appropriate action to be taken against rogue therapists across disciplinary bodies/jurisdictions. Repeat offenders obviously increase the risk to the public.

OBJECTIVES OF GOVERNMENT ACTION

- **What do you think should be the objectives of government action in this area?**

The objectives of government action should be to:

- support greater public awareness of ethical and safe practice in relation to the delivery of all types of health service, regardless of whether the health service practitioner is currently registered or self-regulated
- establish a nationally consistent regulatory framework for the monitoring of all types of health service, regardless of whether the services are currently provided by registered or self-regulated practitioners. This could be achieved by endorsing specific statutory codes of practice for emerging professions such as massage therapy and more generic codes of conduct like the NSW Code for the vast array of practices encompassed under the umbrella of unregistered health services.
- introduce, promote and enforce minimum standards to address the issue of health services provided by practitioners with no qualifications and/or professional association affiliations.

This could be achieved by establishing public registers of qualified practitioners in consultation with the relevant professional bodies.

- establish and promote quality assurance mechanisms for services provided by unregistered health practitioners. These could be developed in conjunction with the professional associations and promoted to the public.
- establish a single portal for the public to access if they have concerns about a health service that has been provided to them and wish to lodge a complaint, regardless of whether the service was provided by a registered or self-regulated practitioner (somewhat akin to the HCCC website but national, rather than state-based).

THE OPTIONS

- **Do you think there is a case for further regulatory action by governments in this area?**

AMT's position is that there is a strong case for enhanced regulation of unregistered health practitioners.

- **What do you think of the various options?**
  Option 1: No change
  Option 2: A voluntary code of practice for unregistered health practitioners
  Option 3: A national statutory code of conduct for unregistered health practitioners

If the three options are mutually exclusive, AMT supports option 3. However, a generic code of conduct for all unregistered health practitioners is unlikely to afford adequate protections without a significant public awareness campaign to support it. This is evidenced in NSW where, despite the introduction of negative licensing almost three years ago via the HCCC-administered code of conduct, there is still a significant population of practitioners operating without any knowledge of the requirements in the code.

This poses a continued significant risk to public health and safety.

Additionally, there would need to be enhanced monitoring of prohibition orders and some provisions for protection of title to support the introduction of a national code of conduct, since there is nothing currently preventing unscrupulous NSW practitioners from being prohibited to practice one kind of service and then moving into offering a different service that they have not yet been prohibited from practising.

Ideally, a combination of options 1 and 2 - strengthened self-regulation and strengthened health complaints mechanisms via a statutory Code of Conduct - could be employed to address the issues raised above. This could involve government endorsement and promotion of existing professional standards and codes, and assisting professional bodies to develop and promote health-service specific Codes of Practice.

AMT's intention in developing a specific code of practice for massage therapists in Australia is principally to address the current gaps in the regulatory framework. We will be seeking endorsement of the standards laid out in the code from the relevant government agencies and departments.

- **On balance, do you have a preferred option? What are your reasons?**

AMT's preferred option would be a combination of options 2 and 3, for the reasons stated above. Protection of title and barriers to entry would further enhance the level of public protection.

- **What do you think are the costs and benefits of the three options?**

Costs of option 1 are the ongoing costs currently borne by the various representative bodies and associations (largely recovered via membership dues) and the costs outlined in the AHMAC consultation paper. The benefit of option 1 is that is affords at least some public protection in a regulatory environment that is essentially market driven.

The costs associated with option 2 would principally be connected to subsidising the existing work of the representative bodies and associations, assisting them to enforce voluntary codes, standards and complaint handling mechanisms and promote these to the public.

Given the disparate nature of the services represented under the umbrella of unregistered health practitioners, this would require significant investment due to the complex, diffuse and sometimes fragmented nature of representation in the sector. The key benefit of this option is the scope to tailor and develop codes of practice to the circumstances of each profession and to amend these codes as practices evolve and change over time. Government endorsement of professional codes of practice would greatly enhance the capacity of representative bodies to promote professional standards of practice.

The ongoing costs involved in option 3 largely hinge on the way the system is set up and administered, Obviously, any duplication of existing state functions would be an undesirable byproduct of the establishment of a national code. Benefits of a national code would only be realised through a substantial public awareness campaign. Otherwise, the level of public protection stemming from a national code is negligible compared to the status quo of option 1.

- **Do you think there should be a nationally uniform code of conduct for unregistered health practitioners or are different codes in each State and Territory acceptable?**

If a statutory code of conduct is to be enacted, it must be nationally uniform. Disparate codes across the various jurisdictions would not serve the COAG National Partnership agreement for a seamless national economy. Additionally, it would be inconsistent with the current arrangements for registered practitioners (that is, administered by a central agency) and therefore likely to create unnecessary consumer confusion.

From the perspective of a national representative body such as AMT, national consistency makes the job of effective self-regulation far easier. It is a complex nightmare to communicate differing jurisdictional requirements across a national constituency. AMT already struggles to do this with existing statutory requirements that are relevant to massage therapy practice, such as privacy law, OHS and infection control regulation, and child protection legislation.

A state-based system is extremely difficult to administer, articulate, explain and promote.

For this reason, AMT would also welcome any AHMAC initiatives to address the fragmentary nature of legislation that applies to the provision of various kinds of health services.

Attempting to address the current risks associated with unregistered health practitioners requires a national focus and a truly national solution. Reinforcing the current state fragmentation via a series of separate jurisdictional codes is manifestly not an effective remedy to the problem that has been posed in the AHMAC consultation paper.

AMT's preferred option would be for AHPRA's current functions to be extended to encompass a regulatory framework for unregistered health practitioners. This would enable national consistency across the delivery and monitoring of all health services, regardless of whether the service is being provided by a registered or self-regulating practitioner. It would also mean a one-stop-shop or portal for all consumers to access for information, which would lessen public confusion and enhance efforts to promote protections and disciplinary mechanisms to the public.

- **Should there be nationally uniform or nationally consistent arrangements for investigating breaches of the code and issuing of prohibition orders, or should States and Territories each implement their own arrangements?**

The policing of a national code should be nationally uniform and consistent, in the interests of transparency and consumer confidence, and in service of the seamless national economy.

- **Should there be a centralised administrative body that administers the regulatory scheme or should it be administered by each State and Territory government?**

There should be a centralised administrative body. Avoiding unnecessary duplication of state and national functions would be a desirable outcome of this process.

- **If a statutory code of conduct were to be enacted, to whom should it apply?**

A statutory code of conduct should apply to any practitioner who claims to be offering a health service.

- **Which practitioners, professions or occupations should be included? Should it apply only to practitioners who deliver health services? If so, what should be the definition of a health service?**

It is impracticable to compile an exhaustive list of professions and occupations, especially since new practices are proliferating all the time, often very rapidly. There are also massive perception issues to take into account: one man's health service is another man's witchcraft.

The Code should extend to any practitioner who claims to be providing a health service. A health service could be very broadly defined as any practice or intervention that is used to promote, improve, conserve, restore, assess or measure physical and/or mental wellbeing.

- **Should it apply to registered practitioners who provide health services that are unrelated to their registration, for example, a registered nurse who is working as a naturopath or massage therapist?**

Yes, the code should apply to registered practitioners operating outside their usual scope. It should be applied consistently, regardless of whether the practitioner is subject to existing statutory requirements or not.

- **Should it only apply to practitioners who directly deliver services, or should it also apply to those who deliver health services through the agency of another person, for example, the owners or operators of businesses that provide health services?**

This would depend entirely on the specific requirements enshrined in the code of conduct and the concomitant practicality of issuing a prohibition order on an owner or operator. Vicarious liability may be unwieldy to administer and enforce.

- **What do you think should be included in a national statutory code of conduct?**

A national statutory code of conduct could be based on the existing NSW Code but should be extended to include some protection of title and barriers to practice to make it more difficult for completely unqualified, rogue operators to provide health services to unsuspecting members of the public.

- **Do you have any comments on the NSW Code of Conduct for Unregistered Health Practitioners?**

The NSW Code of Conduct is very broad and its requirements are, in many cases, pitched at a lesser standard than the codes of conduct that the various professional bodies implement and promote. In this sense, even though it is a statutory code, The NSW Code possibly affords less protection in terms of required ethical and professional standards than the existing self-regulatory mechanisms. This would suggest that assisting professional bodies to enhance and promote their existing mechanisms would create public safety outcomes that are at least equal to the NSW Code and possibly greater where the professional requirements are more stringent and health-service specific.

The HCCC's capacity to issue prohibition orders affords a greater level of public protection than the existing self-regulatory mechanisms in real-world practical terms. However, in AMT's experience of dealing with the HCCC, greater monitoring of prohibition orders is necessary to fully realise the benefits of this disciplinary mechanism.

- **What do you think are the strengths and weaknesses of the NSW Code?**

The strengths and weaknesses of the NSW Code both stem from its broad and generic nature.

The breadth of the NSW Code gives the HCCC the scope to offer wide and far-reaching protections to the community. However, this has the attendant weakness of making it more difficult to apply. The Code deals only in very broad generalities so it is more difficult to make disciplinary rulings in cases where the behaviours and issues are complex. It fails to adequately capture the nuances of professional boundaries, which are traditionally the highest risk area for unregistered health service providers.

The effectiveness of the Code is inextricably linked to the degree of evolution of self-regulatory mechanisms, since established professional representative bodies are in a prime position to provide the necessary content knowledge to complaint investigators. This would suggest that the NSW Code is not adequately addressing many of the marginal or questionable health practices that generally lack an adequate self-regulatory framework and are likely to pose the greatest risk to public safety. This interdependence on existing self-regulating mechanisms is a weakness of the Code as a regulatory mechanism.

- **Do you think it provides a good model? What are your reasons?**

It provides a reasonable model for discussion but does not go far enough as a standalone regulatory framework. Additional measures are required to address the problems outlined in the AHMAC consultation paper, such as protection of title and barriers to entry.

- **Do you have a preferred option for the mechanism through which prohibition orders should be issued, that is, via an administrative order decided by a Commissioner, or via a tribunal or court hearing? What are your reasons?**

In the interests of national consistency and transparency, all health service providers should be entitled to a hearing before a tribunal. Applying different processes to registered health practitioners and self-regulating practitioners under a statutory framework would seem to be an inconsistent and untenable application of the regulatory framework.

- **What 'relevant offences' (if any) should provide grounds for a prohibition order to be issued?**

Relevant offences should include, but not be limited to:

- sexual misconduct involving sexual assault or sexual relationships with client(s)
- providing health care services outside the practitioner's experience, training and scope
- practising with a physical or mental condition that is likely to place clients at risk of harm
- practising under the influence of alcohol and unlawful drugs. This should include practicing under the influence of medications that may impair the practitioner's ability to practice safely.
- failure to comply with statutory requirements, such as health information privacy laws.

- **How do you think a regulatory scheme to investigate and prosecute breaches of a national statutory code of conduct for unregistered health practitioners should be funded? What are your reasons?**

This would depend on whether the scheme was administered jurisdictionally or nationally.

In NSW, the HCCC absorbed the cost of investigating and prosecuting unregistered health practitioners through existing funding mechanisms, at minimal strain to their resources.

Either way, the regulatory scheme will require government funding in service of the mission of the Australian Commission on Safety and Quality in Healthcare to develop a national strategic framework and associated work program to improve safety and quality across the health care system in Australia. Acknowledging that the services provided by unregistered health practitioners are an integral part of healthcare delivery in Australia is a significant step towards establishing appropriate levels of scrutiny and regulatory protections.

Appendix A

Massage Therapy Code of Practice

Consultation Draft

April 2011

Massage Therapy Code of Practice
Delivering quality care to Australian consumers

Introduction

The Massage Therapy standards of practice contained in this Code have been set down by the Association of Massage Therapists Ltd (AMT) to provide a formal framework for the safe and ethical practice of Massage Therapy in Australia, and to assist practitioners in applying risk management policies and procedures in their clinic or workplace.

The Standards have been formalised to help practitioners understand and meet their professional duty of care. In the context of massage therapy practice, duty of care pertains to the massage therapist's ethical and legal obligation to avoid acts or omissions that are likely to cause harm to their clients. It is the appropriate and responsible application of professional knowledge and skill.

In the context of massage therapy practice, professional misconduct is defined as a violation of these ethical standards – a failure to meet or a breach of this Code of Practice. The Code clearly and comprehensively set out AMT's position if called upon to give Expert Witness evidence in court cases for criminal negligence or assault.

It is the Massage Therapist's responsibility to formulate a risk management framework around the standards articulated in this Code of Practice.

In developing this Code of Practice, AMT is honouring its commitment to protecting the public and serving its membership, by promoting the safe and ethical practice of massage therapy. The Code should serve as a reference for:

- **Therapists –** to better understand their ethical, legal and professional obligations
- **Educators –** to incorporate in the delivery of Health Training Package qualifications
- **Allied health professionals –** to assist in making appropriate health referrals
- **Disciplinary bodies –** to provide a benchmark against which complaints can be assessed
- **Legal authorities –** to inform criminal investigations and proceedings
- **The public –** to empower clients to assess the quality of their care against an objective framework.

The Massage Therapy Code of Practice is a living document that will evolve in line with changes in practice and legislation.

Legislative context

Massage therapy is currently self-regulated in Australia. There is no Statute or Act that applies solely or specifically to the practice of massage.

However, massage therapists are accountable under the following statutory codes and legislative instruments:

Federal

The Privacy Act 1988

Competition and Consumer Act 2010

NSW

Public Health Act 1991

Healthcare Complaints Act 1993

The Health Records and Information Privacy Act 2002

Children and Young Persons (Care and Protection) Act 1998

NSW Code of Conduct for Unregistered Health Practitioners

ACT

Health Act 1993

The Health Records (Privacy and Access) Act 1997

Victoria

Health Records Act 2001

Working with Children Act 2005

Queensland

Health Quality and Complaints Commission Act 2006

Child Protection Act 1999

South Australia

Health and Community Services Complaints Act 2004

Children's Protection Act 1993

Western Australia

Health Services (Conciliation and Review) Act 1995

Information Privacy Bill 2007

Working with Children Act 2004

Tasmania

Health Complaints Act 1995

Northern Territory

Care and Protection of Children Act 2007

Scope of Practice

The practice of massage therapy is the systematic assessment and treatment of the muscles, tendons, ligaments and connective tissues of the body to:

- maintain, rehabilitate or augment physical function
- relieve pain
- prevent dysfunction
- enhance health and promote wellness.

It includes the systematic external application of a variety of manual techniques including stroking, friction, vibration, kneading, compression, percussion, stretching and passive joint mobilisation. It may also include the external application of heat, cold, topical preparations, tape, mechanical devices and exercise prescription. The application of these techniques is based on validated traditions and current scientific understanding.

Massage therapists have:

- a detailed knowledge of anatomy, physiology and biomechanics
- well-developed observational and palpatory skills
- an understanding of normal function in relation to the soft tissues of the body and the ability to recognise dysfunction

- what else??

Massage therapists treat a wide variety of conditions including:

- neck and back pain, and tension headache
- muscle, connective tissue and joint pain
- arthritis
- repetitive strain injury and occupational overuse syndromes
- postural problems
- sports and activity-related issues
- stress and anxiety

Massage therapists may work in one or more of the following areas:

Remedial Massage:
to assist in rehabilitation, pain and injury management. A range of manual therapy techniques may be employed in treatment, such as deep connective tissue massage, Trigger Point Therapy, Muscle Energy Techniques, Direct and Indirect Myofascial Techniques and Neuromuscular Facilitation.

Therapeutic or relaxation massage:
to promote wellbeing, improve sleep, treat anxiety and tension, and enhance a range of systemic body functions such as circulation.

Sports massage:
to treat and prevent injuries, improve recovery, flexibility and endurance, and enhance the performance of athletes.

Structural bodywork:
to address postural and biomechanical patterns of strain.

Lymphatic drainage and lymphoedema management:
to support and enhance the primary care of patients whose lymphatic system has been compromised by a variety of chronic or acute illnesses.

Oncology, palliative care and geriatric massage:
to support the primary care of patients with chronic illness and a broad range of quality-of-life issues.

Pregnancy and pediatric massage:
to support the primary care of pregnant women and infants

Oriental massage:
to enhance mental and physical wellbeing.

Complementary Modalities

Massage therapists use a wide variety of techniques, approaches and modalities. Although some of these modalities do not fit strictly within the massage therapy scope of practice, AMT recognises the need to give practitioners reasonable latitude in employing a diverse range of techniques and methodologies in their clinical practice.

Complementary modalities may be integrated into the massage therapy treatment plan. Therapists who incorporate these complementary modalities into a treatment must understand their professional duty of care and undertake to:

- adhere to the AMT Code of Ethics and Standards of Practice
- have the training, knowledge, skill and judgment to perform the complementary modality competently
- inform the client that they are using the complementary modality
- obtain valid, informed consent for the use of the modality
- abide by third party provider requirements.

However, if the complementary modality is performed on its own, it is not considered to be massage therapy. It cannot be billed or receipted as massage therapy for the purpose of third party reimbursement, such as private health fund rebates.

The following is a list of complementary modalities that may be integrated into the massage therapy treatment plan:

Alexander Technique
Aromatherapy
Bowen Therapy
Craniosacral Therapy
Emmett Technique
Feldenkrais
Reflexology

Rolfing and Structural Integration
Shiatsu
Trager

Activities and modalities outside the massage therapy scope of practice

The practice of massage therapy does not include:

- high velocity-low amplitude (HLVA) manipulations
- prescription / recommendation of supplements or other ingestible substances
- counseling (unless the massage therapist holds a recognised counseling qualification)
- diagnosis of conditions or diseases.

Additionally, AMT does not endorse the use of the following modalities. They should not be performed as part of the massage therapy treatment plan and should not be held out to be within the scope of massage therapy. This list should not be interpreted as a complete list of activities outside the scope of massage therapy.

Acu-Energetics
Allergy Testing
Ayurvedic Medicine
Bach flower Remedies
Biofeedback
Biodynamic massage
Bioenergetics
Body Transformation
Chakra Balancing
Colonic Irrigation
Color Therapy
Core Energetics
Counselling
Crystal Healing
Dolphin Healing
Ear Candling
Emotional Freedom Technique
Energetic Healing
Energetic Medicine
Feng Shui
Flower Essences
Geomancy / treatment of geopathic stress
Hawaiian massage / Lomi Lomi
Hellerwork
Herbalism
Homeopathy

Holistic Breathwork
Hypnosis
Iridology
Kinesiology / Touch for Health
Laser Therapy
Life Coaching
Live blood analysis
Magnet Therapy
Magnetic Field Therapy
Metamorphic Technique
Naturopathy
Neuro-linguistic Programming
Personal Training
Polarity Therapy
Postural Integration and Psychotherapeutic Postural Integration
Pranic Healing
Raindrop Therapy
Rebirthing
Reconnective Healing
Reiki
Sexological Bodywork
Shamanic Healing
Sound Therapy
Spiritual Healing
Tantric Massage
Thai Massage
Theta Healing
Thought Field Therapy
Time Line Therapy
Traditional Chinese Herbal Medicine
Zero balancing

AMT STANDARD - PROFESSIONAL BOUNDARIES

Purpose

The purpose of this policy is to provide massage therapists with a clear definition of professional boundaries within the massage therapy setting and to outline the therapist's responsibility in maintaining professional boundaries.

Background

Professional boundaries refer to the limits and parameters that are set within the therapeutic relationship that protect the space between the massage therapist's power and the client's vulnerability. The establishment of clear boundaries is intended to create a safe and predictable place where treatment can take place.

Massage therapists have a duty of care to ensure that the client/therapist interaction is based on plans and outcomes that are therapeutic in intent.

To effectively manage professional boundaries, massage therapists must understand and appreciate the inherent power imbalance that exists between the client and the therapist. This power imbalance leaves the client vulnerable and potentially open to exploitation. The massage therapist always carries the burden of responsibility for maintaining appropriate boundaries due to this power differential. When a massage therapist crosses a professional boundary, they are abusing or misusing this power.

Maintenance of professional boundaries requires diligence and vigilance. Boundary issues can be complex, dynamic and confronting. Massage therapists must engage in reflection on their clinical practice to ensure that boundaries are not being compromised by themselves or their clients.
Signs that the professional boundary might have eroded include:

- developing strong feelings for a client
- spending more time with a particular client than others

- having very personal conversations with a client
- receiving calls at home from a client
- receiving gifts
- believing only you can offer the right treatment to a client.

Policy

Massage therapists are required to:

- be aware of the power relationship that exists between the client and the therapist
- work within the massage therapy scope of practice
- establish a clinic policies and procedures manual that includes details of your operating hours, fee schedule and third party provider rebates
- maintain high standards of client history compilation, note taking and storage of client files
- obtain informed consent at the start of and throughout the treatment
- wear a uniform or suitable professional attire
- be aware of your client's emotional state, look for signs of clients becoming dependent on you and make appropriate referrals when necessary
- refuse or terminate a treatment if the client is sexually inappropriate, abusive or under the influence of drugs or alcohol
- disclose information to your clients regarding your qualifications, treatment procedures and goals.

Do not:

- flirt or use sexually suggestive language or touch in your treatments
- tolerate sexually suggestive behaviour from your clients
- touch the clients genitals, perineum or breasts. The specific circumstances under which massage of breast tissue may be undertaken are outlined in the Breast Massage Standard of Practice
- engage in gossip or irrelevant chatter with clients

- ask a client to be a friend or accept friendship invitations from a client
- date or see current clients socially
- enter into a sexual relationship with a client
- engage in counseling or psychoanalysis of your clients

Principles

Therapists should be mindful of the following guiding principles

- **All clients are created equal**. If you find yourself making special concessions for a particular client, including giving them more time or priority in your appointment schedule, then you may already have a boundary issue. Doing special favours for a particular client is a clear warning sign that you need to reassess your therapeutic relationship with that client.

- **All clients are created equal, even your friends and family.** You need to be consistent in your application of professional boundaries regardless of any pre-existing relationships outside the clinic setting. If you decide to treat a relative or a friend, you must employ the same professional standards, record keeping, language and behaviour as you do for all clients.

- **Prevention is better than cure.** Maintaining professional boundaries is extremely complex and challenging. Having an experienced mentor or supervisor to provide objective advice, clarity and guidance is an effective way to ensure that you are keeping yourself and your clients safe at all times. Peer networking and participation in professional development in the areas of ethics and professional practice play a crucial role in developing your skills and awareness.

- **Know thyself.** Self-reflection is essential to high-quality professional practice. You cannot effectively contribute to the wellbeing of your clients without reflecting on your practices, challenging your assumptions and examining your beliefs. This includes monitoring the appropriateness of your needs as a therapist such as the need to “fix” a client, be admired or loved by a client, or be perfect in your client’s eyes. You also need to closely

observe the appropriateness of your beliefs, such as the perception that nobody else can provide the appropriate treatment for a particular client or do what you are doing.

Key underpinning concepts

Transference

Transference occurs in the clinical setting when the client personalises the professional relationship. This can manifest in the giving of inappropriate gifts, engaging in personal conversations or demanding longer or cheaper treatments.

Counter transference

Counter transference occurs in the clinical setting when the therapist is unable to separate the therapeutic relationship from a personal one. This can manifest in the form of having sexual feelings for the client, showing favoritism, experiencing revulsion towards the client, or having the client meet particular emotional needs.

AMT STANDARD - DRAPING

Purpose

The purpose of this policy is to provide massage therapists with clear and unequivocal standards for appropriate draping practice.

Background

Correct draping protocols have a number of significant functions. Draping is a cornerstone of professional clinical standards and is essential for the client's welfare and sense of security, providing the necessary privacy, modesty and warmth during the massage treatment.

Appropriate draping assists in maintaining client-therapist boundaries. It can be considered as a tangible professional boundary between the client and the therapist. It provides the therapist with access to the relevant, targeted body part to be worked and helps to delineate between areas being massaged and areas not being massaged.

AMT recommends that members develop their draping protocols and document their practice in their policies and procedures manual. Standard protocols must be adhered to regardless of the individual client's attitudes to draping. The therapist is responsible for maintaining draping standards.

Types of draping may vary but commonly include the use of towels, sheets and/or blankets. The therapist must ensure that sufficient clean draping is always available.

Policy

Massage therapists are required to:

- ensure that clients wear underpants during the massage treatment. Women may also wear a bra. If the bra is to be undone, consent must be sought
- explain draping procedures prior to the commencement of the session and seek appropriate consent
- only expose the part of the body being massaged
- inform the client and obtain consent when the draping needs to be changed
- ensure that the client is comfortable with their draping at all times
- adjust the draping if a client indicates discomfort
- have a clear therapeutic rationale for any change of draping
- give the client clear verbal instructions concerning draping procedures
- obtain informed consent when tucking linen into the client's underpants and when moving underpants
- adapt the treatment plan if a client wants to remain fully or partially clothed during the treatment
- allow the client to dress and undress in private. Do not re-enter the room without ascertaining that the client is ready. If a client requires assistance with dressing or undressing, modesty should be maintained at all times
- provide the client with sufficient draping to cover their body when lying on the massage table before you leave the room for them to undress. Give clear verbal instructions on how you want the client to position themselves on the table and how to arrange the draping and supports
- ensure that the client remains covered if they require assistance on and off the massage table
- use fresh draping and linen for each client
- maintain the draping close to the client's body when changing their position on the table
- ask the client to hold the draping in position for some areas, such as near breast tissue and the groin
- check that the client is warm enough with the draping used
- use lightweight draping if the client is too warm
- use draping at all times, even if the client asks for it to be removed.

Do not:

- undrape or touch the breasts, perineum or genitals
- carry dirty linen against your body. See the Infection Control Standard of Practice for advice on washing soiled linen and procedures for handling linen soiled by body fluids
- work with your hand(s) underneath the draping
- slide or place your hand(s) underneath the draping .

Principles

The following principles should be employed:

- Draping must be comfortable for the client but also secure and distinct. Draping should be adjusted quickly and efficiently.
- Clients must wear a gown or suitable clothing during postural observations and during treatments that require frequent changes in positioning (e.g. exercise shorts and top). Women must wear a bra and underpants at minimum. Informed consent must be obtained prior to postural observations and any other techniques that require the active participation of the client.
- Therapists should review their draping standards and techniques as their skills sets broaden.
- Therapists must be particularly attentive to their draping protocols as they become more familiar with regular clients.

References

Andrade, C. & Clifford, P (2008) *Outcome-Based Massage. From Evidence to Practice*_ 2nd Editio, Wolterskluwer. Lippincott Willams & Wlkins, USA.

Salvo.S (1999) *Massage Therapy Principles and Practice*, WB Saunders. USA

AMT STANDARD - BREAST MASSAGE

Purpose

The purpose of this policy is to outline the necessary preconditions for performing massage of breast tissue, including the accepted clinical indications for breast massage.

Background

Massage of breast tissue is distinct from massage of the musculature of the chest wall (for example, pectorals and costal muscles).

Solid clinical reasoning and informed consent are essential preconditions to performing massage on sensitive areas such as breast tissue. Informed consent requires the therapist to provide pertinent information about the treatment. The client must have a clear understanding of the clinical basis for breast massage before treatment commences. Explanation of the treatment should include the risks and benefits, alternatives, draping and positioning, and the client's right of refusal throughout the treatment.

Written informed consent must be obtained prior to performing massage on breast tissue. However, because consent is dynamic, the therapist must respond immediately if the client withdraws consent during the treatment. Clients may withdraw consent at any time and it is the massage therapist's duty of care to respect this and to respond appropriately. Changes in consent should be recorded in the client file as they occur.

Clinical indications for breast massage

Massage of breast tissue is only allowed for the following specific clinical presentations:

- Post-surgical - when a client has undergone

    - mastectomy
    - breast reduction, reconstruction or augmentation
    - lumpectomy
- Cancer - when there is discomfort from breast cancer treatment or during rehabilitation from cancer treatment
- Scarring - when there is adhered, restricted or painful scarring due to:
    - the surgeries listed above
    - cancer treatment
    - injuries or accidents, including burns
- Swelling and/or congestion - when lymphatics have been compromised by:
    - the surgeries listed above
    - cancer treatment
    - primary or congenital lymphoedema.

Policy

Massage therapists are required to:

- obtain written informed consent for breast massage and retain this in the client file
- document the clinical reasoning for breast massage in the client file
- respect the client's right to withdraw consent for breast massage at any time and document any changes to consent as they occur
- maintain draping protocols and only uncover breast tissue when it is being worked on directly.

Do not:

- touch the nipple and / or areola
- perform breast massage if you cannot demonstrate clear, clinical reasoning to your client
- perform breast massage if it is not clinically indicated, as per the conditions listed above.

Principles

Therapists should observe the following principles when treating breast tissue:

- **Respect boundaries**. Breasts are a sensitive area and must be treated with due sensitivity. In western culture and society, female breasts are highly sexualised so it is critical for the therapist to be able to clearly communicate the difference between sexual touch and therapeutic touch. The client must fully understand this distinction for informed consent to be valid. It is the therapist's responsibility to respect and maintain the boundary between therapeutic touch and sexual touch at all times.

- **Remember that consent is dynamic**. Consent can change from minute to minute in any given treatment or between treatments. After obtaining written informed consent for breast massage, the therapist should watch for any non-verbal signs of discomfort and check in with the client to ensure that they continue to be comfortable with the treatment.

- **Have a sound clinical basis for performing breast massage.** Due to the sensitivities of the work, breast massage should not be undertaken casually or lightly. If you cannot clearly articulate the clinical reasoning for the treatment, do not proceed.

- **Refer if you are in doubt**. If it is not possible to proceed confidently or comfortably with the treatment, refer the client to another therapist or back to their primary carer.

AMT STANDARD - INFORMED CONSENT

Purpose

The purpose of this policy is to explain informed consent in the massage therapy setting and to clearly outline the responsibilities of the massage therapist in obtaining informed consent.

Background

Informed consent is the voluntary agreement by the client to a treatment plan after proper, accurate and adequate information is conveyed about the proposed techniques and protocols that will be used.

Informed consent assists both the client and the therapist to determine the treatment goals.

The key premise of informed consent in the massage therapy setting is that clients are autonomous and have control over their own bodies. This includes control over what the therapist does to their body. It is integral to a client-centered approach to health care.

Informed consent requires the therapist to provide pertinent information about the treatment. For example, a therapist may describe the position and function of the gluteal muscles and explain why massaging them is relevant to the client's treatment plan. Access to the gluteals may require the client's underpants to be lowered. After describing this procedure, the client is given the choice to proceed prior to treatment.

It is the responsibility of the massage therapist to provide clear information about what the client can expect from the treatment. The intent and direction of the

treatment should be clearly defined for the client. The client should determine if a procedure should occur.

A signed consent form is not proof that the client was adequately informed.

Information given to the client when seeking consent includes:

- the treatment plan
- the duration of the treatment
- techniques to be used
- body parts to be massaged
- positioning
- clothes the client may need to remove
- outcomes of the massage
- any associated risks, such as the chance of post treatment muscle soreness.

For consent to be valid it must:

- be given voluntarily and not coerced or induced by fraud or deceit
- cover the treatment / procedure(s) undertaken
- be given by a person with legal capacity (parent, guardian or caregiver).

Clients may withdraw consent to a treatment at any time and this must immediately be respected by the massage therapist.

Policy

Massage therapists are required to:

- negotiate the treatment plan with the client
- seek informed consent for treatment and document this consent in the client's file

- respect the client's right to withdraw consent for the treatment or any aspect of the treatment
- provide information in plain language
- avoid using anatomical or medical jargon unless the client clearly indicates they are familiar with this language
- consider the client's literacy and language skills when obtaining consent
- seek consent from a parent, legal guardian or caregiver if the client does not have the legal capacity to give consent
- seek consent from a parent, legal guardian or caregiver if it becomes apparent that the client cannot comprehend the proposed treatment
- maintain eye contact with the client when seeking verbal consent unless it is not feasible to do so (i.e. the client is lying prone)
- obtain written informed consent for techniques that are invasive (for example, dry needling and intraoral work).

AMT does not require therapists to obtain written informed consent unless the techniques being used could be perceived as invasive. If written consent is being sought, AMT members may use the form prepared by AMT for that purpose.

Verbal consent must be documented in the client file.

Principles

Therapists should be mindful of the following principles when seeking consent:

- **Consent is dynamic**. A client may initially consent to the massage or part of the massage and then change their mind during the treatment. If a client withdraws consent at any time, the therapist must respond accordingly. Equally, just because a client gave consent during one treatment does not mean that the therapist can assume that the client will always consent to the same treatment.

- **Consent must be clear and definitive.** Be aware of nuances in the client's language that may indicate that consent is being given reluctantly. For example, note the difference between "Yes that is absolutely fine, go ahead" and "I suppose that is OK, if you have to". Give alternatives wherever possible. Offering a client the option to say no and an alternative can assist in obtaining definite consent. For example "It is not necessary to lower you underpants. I can apply some techniques through your clothes or the draping. Would you prefer that?".

- **Knowledge is power.** Most people's fear or anxiety about having a massage is alleviated by information and a full understanding of what is about to occur. This should include informing the client that you will leave the room to allow them to undress and dress, and that they will be fully covered throughout the massage, except for the area being massaged.

- **Non-verbal signals may indicate that you need to renegotiate consent.** Non-verbal signals such as laughing, excessive talking, holding the breath, fidgeting, and clenching the hands, feet, buttocks or jaw often indicate that the client is uncomfortable. If this happens, it is a good time to check that the client is happy to proceed with the massage or technique you are using. Only minor changes may be needed to make the client comfortable, such as the use of less pressure, a change in technique or a change in positioning.

References

Andrade, C. & Clifford, P. (2008) *Outcome-Based Massage. From Evidence to Practice*, 2nd Edition. Wolterskluwer. Lippincott Willams & Wilkins, USA.

Weir, M. (2000) *Complementary Medicine: Ethics and Law*, Prometheus Publications. Australia

Yardley-Nohr (2007*) Ethics for Massage Therapists,* Lippincott Williams & Wilkins, USA.

AMT STANDARD - PRIVACY AND CONFIDENTIALITY

Purpose

The purpose of this policy is to provide massage therapists with a clear understanding of their legal and ethical obligations in relation to the privacy of clients' personal information.

Statutory requirements

As health service providers, massage therapists have a legal obligation to protect the privacy of their clients' personal information.

In November 2001, the Federal Privacy Act 1988 was extended to cover the private sector throughout Australia. The legislation applies to the collection of personal information in the massage therapy setting. Massage therapists should be familiar with the 10 national privacy principles in the Privacy Act 1988.

The NSW Health Records and Information Privacy Act 2002 contains 15 privacy principles. These form the core of the requirements in this policy.

The standards outlined in this policy should be applied in conjunction with the relevant State or Territory legislative requirements in your jurisdiction. There are 3 state Acts that specifically relate to health information privacy:

ACT

The Health Records (Privacy and Access) Act 1997. This can be accessed online from http://www.legislation.act.gov.au/a/1997-125/default.asp

NSW

The Health Records and Information Privacy Act 2002. This can be accessed from http://www.austlii.edu.au/au/legis/nsw/consol_act/hraipa2002370/index.html

Victoria

The Health Records Act 2001. This can be accessed online from http://www.austlii.edu.au/au/legis/vic/consol%5fact/hra2001144/index.html

ACT, NSW and Victorian practitioners must be familiar with their relevant Health Records Act to ensure the compliance.

Policy

Massage therapists are required to:

- comply with the 10 national privacy principles in the Federal Privacy ACT 1988
- comply with relevant state health records legislation
- develop a clear and articulable privacy policy
- treat all client information as private and confidential
- respect client privacy
- protect the personal information of clients
- store all client records securely
- obtain consent from the client before sharing health information with another health practitioner.

Health information collected from clients must be:

- Lawful: only collect health information for a lawful purpose. Only collect health information that is necessary for the purpose of delivering massage therapy treatment to the client.
- Relevant: ensure that the health information is relevant, accurate and up to date. Ensure that the collection does not unreasonably intrude into the personal affairs of the individual.
- Direct: only collect health information directly from the client, unless it is unreasonable or impracticable to do so. Information can only be sought from other parties with the express permission of the client.
- Open: inform the client as to why you are collecting health information about them, what you will do with the health information, and who else might see it. Tell the person how they can see and correct their health information, and any consequences if they decide not to provide their information to you. If you collect health information about a person from someone else, you must still take reasonable steps to ensure that the client has been notified as above.
- Secure: ensure that health information is stored securely, not kept any longer than necessary, and disposed of appropriately. Information should be protected from unauthorised access, use or disclosure.
- Transparent: explain to the client what health information about them is being stored, why it is being used and any rights they have to access it.
- Accessible: allow people to access their health information without unreasonable delay or expense
- Correct: allow people to update, correct or amend their health information where necessary
- Accurate: ensure that the health information is relevant and accurate before using it.
- Limited Use: only use health information for the purpose for which it was collected, or a directly related purpose that the person would expect. For example, you cannot use health information for a case study or research without the express, formal consent of the client.

- Limited Disclosure: only disclose health information for the purpose for which it was collected, or a directly related purpose that the person would expect. You must obtain consent from the client before disclosing health information.
- Authorised: people must expressly consent to participate in any system that links health records across more than one organisation. Only include health information about a client for the purpose of the health records linkage system, if they have expressly consented to this.

Do not:

- share a client's personal information with a third party without the express permission of the client
- share a client's personal information with colleagues without the express permission of the client
- discuss a client's personal information with other clients
- discuss a client's personal information with friends and relatives of the client
- discuss a clients' personal information with your friends and relatives
- solicit overly intimate details from clients.

Exceptions to Confidentiality

The following are specific exceptions where the right to confidentiality may need to be modified:

- when there is a threat to the client's safety (such as a medical emergency) or the safety of others
- when the client authorises disclosure
- when the client has requested a written report for another health professional or agency
- when you are permitted or compelled by law to disclose client information (such as a subpoena)

- when treatments are paid for by an insurance company and it is a condition that regular reports be provided (such as WorkCover authorities)

Principles

Therapists should be mindful of the following principles in relation to client privacy and confidentiality:

- **Verbal communications with a client should be conducted in complete privacy and remain confidential.** Clinic rooms should be soundproof.

- **The client must consent to their health information being given to a third party**. Permission must be sought from the client before health information is given to another health professional. Permission must also be sought before sharing health information with other practitioners working in the same practice. Client information should never be shared with friends, acquaintances or members of the public.

- **Physical security of client records is paramount.** This also includes the security of records when they are being transported. Records must always be protected from unauthorised access.

- **Clients must be given adequate privacy to undress and dress, and throughout the treatment.** The therapist should leave the room to allow the client to undress and dress, and knock before re-entering. Any observations must be undertaken in complete privacy, ensuring that there is no line of sight into the clinic/space where they are being performed. Screens or barriers should be used where necessary to ensure that there is no line of sight into the treatment area.

References

Statutory requirements outlined in:

- The Federal Privacy Act (1988)
- The ACT Health Records (Privacy and Access) Act 1997
- The NSW Health Records and Information Privacy Act 2002
- The Victorian Health Records Act 2001.

Website of the Office of the Australian Information Commissioner

http://www.privacy.gov.au/

AMT STANDARD - RECORD KEEPING

Purpose

The purpose of this policy is to outline the ethical and legal requirements for the preparation, management, storage and disposal of health records in the massage therapy clinical setting. The term “health record” in this policy document means a documented account of a client’s personal and health information, presenting condition and treatment, in paper-based or electronic form.

Background

Record keeping is an important component of competent professional practice and essential to the delivery of quality evidence-based health care. Massage therapists must create and maintain health records that serve the best interests of clients and that contribute to the safety and continuity of their health care.

The purpose of documenting and maintaining accurate health records is:

- to obtain personal information in order to identify the client
- to obtain health information (medical information and history, including medications) to identify indications and/or contraindications to treatment.
- to obtain informed consent
- to provide an accurate and concise record of client care including assessment procedures, treatment plans, treatment evaluations, client feedback and recommendations
- to record the chronology of treatments provided
- to support continuity of care and provide written evidence that the treatment has been provided
- to meet legal, professional and statutory requirements
- to provide information for the investigation of complaints
- to provide evidence of care before a court of law

- to provide accurate records for insurance and medical reports.

Statutory Requirements

As health service providers, massage therapists have a legal obligation to comply with the requirements of the Federal Privacy Act and relevant state health records legislation in the collection and management of personal information, including health information. There are ten National Privacy Principles that regulate how private sector organisations manage personal information, covering the collection, use and disclosure and secure management of the personal information. The Privacy Act also includes provisions for clients to access information held about them. This information is detailed in AMT's Privacy and Confidentiality Standards of Practice.

The standards outlined in this policy should be applied in conjunction with AMT's Privacy and Confidentiality Standards and with the relevant State or Territory requirements in your jurisdiction.

There are three state Acts that specifically relate to health records:

ACT

The Health Records (Privacy and Access) Act 1997. This can be accessed online from http://www.legislation.act.gov.au/a/1997-125/default.asp

NSW

The Health Records and Information Privacy Act 2002. This can be accessed from http://www.austlii.edu.au/au/legis/nsw/consol_act/hraipa2002370/index.html

Victoria

The Health Records Act 2001. This can be accessed online from http://www.austlii.edu.au/au/legis/vic/consol%5fact/hra2001144/index.html

Massage therapists in Queensland, South Australia, Western Australia, Tasmania and the Northern Territory must comply with the requirements of the Federal Privacy Act. The Privacy Act 1988 can be accessed here:

http://www.austlii.edu.au/au/legis/cth/consol_act/pa1988108/

Additional information:

NSW Department of Health Patient Matters Manual contains detailed policy and procedures on the management and control of health records and can be accessed online from:

http://www.health.nsw.gov.au/resources/policies/manuals/pdf/pmm_9.pdf

Policy

Massage therapists are required to:

- create an identifiable individual health record at the time of a client's first treatment
- promote continuity of a client's care through the maintenance of accurate and comprehensive health records
- treat all client information as private and confidential
- ensure all entries in a client's health record are accurate and concise statements of fact or clinical judgements relating to assessment, treatment and professional advice
- ensure that all entries are relevant to that client and do not contain prejudicial, derogatory or irrelevant statements about the client
- document treatments in chronological order
- allow clients access to their health record without unreasonable delay or expense
- store health records securely and safeguard against loss, damage or access from unauthorised personnel. This includes secure backup of electronic records

- retain health records for a minimum period of seven years from the date the last entry was made. For clients less than 18 years of age, records must be retained for seven years from the date the client turns 18.
- dispose of health records in a way that will preserve the confidentiality of any information contained in them

The following information must be recorded in the health record:

Personal Information

- Name, address, contact numbers, date of birth, occupation
- Name of the client's primary health care provider
- A contact number for emergencies
- History of massage therapy
- Lifestyle information (hobbies, diet, exercise, alcohol consumption, tobacco use)

Health information (medical information and history)

- Concurrent medical /therapeutic treatment
- Current medication(s) and the condition(s) being treated
- Date and nature of any surgical procedures
- List of allergies or skin disorders
- Cardiovascular conditions
- Respiratory conditions
- Musculoskeletal conditions
- Nervous conditions
- Digestive conditions
- Pregnancy, cancer, diabetes, epilepsy, arthritis and family history of arthritis
- Presence of pacemaker, internal pins, wires, artificial joints or special equipment

For each session, the health record must include:

- Date of visit
- Identifying details of therapist providing the treatment
- Update of health information, if required
- Purpose of treatment
- Location and nature of presenting condition
- Duration of presenting condition
- Other treatment(s) sought and results
- Physical assessment
- Treatment plan
- Treatment provided (documents region/muscles treated techniques applied)
- Retesting for evaluation of treatment
- Recommendations (remedial exercises, self-care) and client feedback
- All referrals to and from other practitioners
- Any relevant communication with or about the client

Principles

Massage therapists should be mindful of the following principles in relation to creating and maintaining health records:

- **Health records must be legible**. All entries in the health record must be readable and understandable. Any abbreviations and symbols must be able to be interpreted by another massage therapist or health professional. Health records must be kept in English.

- **Entries in the health record must be signed**. The massage therapist who performed the treatment must sign their notes for each session. In a computerised system, this may require the use of an appropriate identification system such as an electronic signature.

- **Entries in the health record must not be erased**. Entries must be made in such a way that they cannot be erased. All errors must be appropriately corrected but an original incorrect entry should remain readable. An accepted method of correction is to draw a line through the incorrect entry and initial the correction. This also applies to electronic entries. Any added notes following a treatment must be dated.

- **Health records must be reproducible**. If files are stored electronically, it must be possible to reproduce them on paper.

References

Statutory requirements outlined in:

1. The Federal Privacy Act 1988
2. The ACT Health Records (Privacy and Access) Act 1997
3. The NSW Health Records and Information Privacy Act 2002
4. The Victorian Health Records Act 2001.

College of Massage Therapists of Ontario, Public Health Standard 6

NSW Department of Health Patient Matters Manual

Guidelines on Dental Records developed under s. 39 of the Health Practitioner Regulation National Law Act 2009

APA Position Statement on Health Records 2010

Office of NSW Privacy Commissioner

AMT STANDARD - ISSUING RECEIPTS

Purpose

The purpose of this policy is to outline the responsibilities of the massage therapist in relation to issuing receipts for treatment and to provide clear guidelines on what information must be included on receipts.

Background

Receipts are a record of a financial transaction. In the massage therapy clinical setting, a receipt is a written acknowledgement of receiving payment for treatment on a specific day for a specific fee. Similarly, an invoice/tax invoice is a written record of a treatment being provided on a specific day for a specific fee. An invoice/receipt can be incorporated into a single document.

A receipt should be issued as soon as payment for a treatment has been tendered. When payment is not tendered immediately after a treatment, an invoice/tax invoice may be issued to the client or, where applicable, to a third party payer such as WorkCover or Comcare.

Massage therapists have a professional duty of care to ensure that details included on receipts are accurate and truthful. Modifying receipts to enable false claims on insurance is fraud and punishable by law.

Policy

Massage therapists are required to:

- issue a receipt after each payment transaction
- issue an invoice for treatment if payment has not been tendered
- issue a Tax Invoice if registered for and charging GST. The Tax Invoice must include an ABN and be titled “Tax Invoice”

- retain copies of receipts, invoices and tax invoices, either on paper or electronically
- ensure that the details on the receipt/invoice/tax invoice (date, nature of treatment, client's details) coincide with the client's clinical record
- mark duplicate receipts, invoices and tax invoices with 'copy or 'duplicate'.

Do not:

- falsify details on the receipt, such as the client's name or the duration/frequency of treatment, to enable a client to make a false claim with a third party
- change the date or nature of treatment to enable a client to make a false claim with a third party
- use another practitioner's details or provider number(s) to enable a client to make a false claim with a third party
- use correction fluid or tape to make corrections
- charge GST unless you are registered to charge GST.

Information required on receipts

The following details must be clearly printed on receipts, invoices and tax invoices (it cannot be handwritten):

- Name of the therapist who gave the treatment
- Business name if applicable
- Practice address. This must be a street address not a PO Box.
- AMT member number
- ABN if applicable

The following details must also be included but may be handwritten:

- Client's name and address
- Date of treatment
- Nature of treatment
- Health Fund provider number(s)
- Fee

- Date of payment

Tax evasion and fraud

Failing to declare assessable income, not wanting to issue a receipt or providing a false invoice are all considered to be forms of tax evasion.

If you Issue receipts with incorrect or falsified details, such as the date of the treatment, treatment description, name of the treating therapist or name of the client, you are committing fraud.

Misuse of health fund provider numbers is misleading and deceptive conduct and, as such, is a breach of Section 42 of the Fair Trading Act NSW (1987).

Charging GST

You must register for GST if your gross income exceeds $ 75 000. If you are registered for GST, you must issue Tax Invoices for your treatments, quoting your ABN.

References

ATO website record keeping and Tax invasion www.ato.org.au
The Australian Consumer Law- A guide to provisions 2010
The Australian Consumer Law- An introduction November 2010
Fair Trading Act NSW (1987)
ATO fact sheet- How to set out tax invoices and invoices www.ato.org.au
Excerpts from CCH Australian Master GST Guide July 2000

AMT STANDARD - ADVERTISING

Purpose

The purpose of this policy is to provide massage therapists with a clear understanding of what constitutes ethical advertising and to outline minimum standards for the promotion of massage therapy services to the public.

Background

Promoting massage therapy services to the public can be a valuable consumer mechanism, and a positive way to enhance the standing of massage therapists in the wider spectrum of healthcare delivery.

Advertising can provide a means of communicating general information to consumers that can help them better understand the services and options available to them, enabling them to make informed healthcare choices. To make an informed decision about whether to purchase a health service consumers need reliable and accurate information about the service. In this sense, informed choice is an underpinning imperative in framing ethical advertising of massage therapy services.

Advertising includes all forms of print and electronic media, and any public communication using television, radio, film, newspaper, billboards, books, lists, pictorial representations, designs, mobile communications or other displays, the Internet and directories. It also includes business cards, announcement cards, office signs, letterhead, telephone directory listings, professional lists, professional directory listings and similar professional notices. Situations in which practitioners make themselves available or provide information for media reports, magazine articles or advertorials are also considered to be advertising.

Information included in an advertisement for a massage therapy service or clinic must be honest, reliable and useful to support the consumer's capacity to make informed healthcare choices. Using language that consumers can understand and avoiding unfamiliar jargon is crucial to conveying the message ethically.

Advertising that is false, misleading, inaccurate or deceptive compromises the integrity of the profession as a whole and carries serious attendant risks to the consumer, such as exploitation, false expectation or hope, and/or serious compromise to their health and wellbeing. This is especially relevant where the consumer is vulnerable or insufficiently informed to make a decision about the suitability of particular kinds of treatment.

Statutory requirements

Massage therapists are accountable under the Competition and Consumer Act 2010.

On January 2011, the Australian Consumer Law (ACL) commenced. The ACL is a schedule to the Competition and Consumer Act 2010. It is a single, national law concerning consumer protection and fair trading, and applies in the same way nationally and in each State and Territory. In other words, consumers have the same protections and expectations about business conduct wherever they are in Australia and businesses have the same obligations and responsibilities wherever they operate in Australia.

The Australian Competition and Consumer Commission (ACCC) takes action against persons who make false or misleading claims about their products or services, and profit from the desire of vulnerable people to change their appearance or improve their wellbeing.

Massage therapists should become familiar with the Australian Consumer Law, specifically the general protections in relation to misleading or deceptive conduct, unconscionable conduct and unconscionable conduct in business transactions.

The ACL can be accessed here:

http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/cth/consol_act/caca2010265/sch2.html?stem=0&synonyms=0&query=schedule%202

For clear guidelines on how to ensure your advertising and promotions are framed ethically and responsibility, massage therapists should also refer to the ACCC's "Guide for the advertising or promotion of medical and health services", which can be accessed here:

http://www.accc.gov.au/content/item.phtml?itemId=309070&nodeId=950622f3516a423d91ea95494fa69203&fn=Fair%20Treatment—guide%20to%20TPA%20and%20advertising%20of%20medical%20services.pdf

Policy

Advertisements for massage therapy services may contain:

- a factual and clear statement about the services offered
- the full name of the practitioner providing the services (not an abbreviation)
- qualifications of the practitioner offering the massage services and details of any training programs completed since graduation
- contact details of the clinic or practitioner
- information about office hours
- a fee schedule

- details of any third party payment services, such as health fund rebates
- information about professional accreditations with an association such as AMT (e.g. AMT accredited)
- non-enhanced photographs of the practitioner or clinic
- evidence and outcome based information on the benefits of massage therapy.

Massage therapists **should not** promote their services in a manner that:

- is false, misleading or deceptive or is likely to be misleading and deceptive
- creates or is likely to create unrealistic expectations about the effectiveness of the service
- creates or is likely to create false hope
- encourages excessive or unnecessary use of the service
- suggests that the service is always effective
- implies the service is better, safer or superior to other practitioners, or that the service is somehow exclusive
- exploits or potentially exploits the lack of knowledge of clients

Do not:

- make false, exaggerated or unsubstantiated claims (for example, massage cures cancer or removes toxins)
- imply that massage therapy is infallible, magical, miraculous or guaranteed. This includes using the terms “cure” and “heal”
- use testimonials or purported testimonials to promote a massage therapy service
- promote a specialty or specialised service unless you can provide proof of specific training in that specialisation
- misrepresent the standard or quality of the service
- use puffery (i.e. claim to be the best, the cheapest, the most effective)
- use language that could cause fear or distress
- use the terms “masseuse” or “masseur”
- use abbreviations of full names, such as “Susie’s Swedish Massage”.

Misleading and deceptive conduct

If the overall impression left by an advertisement, promotion, quotation, statement or other representation creates a misleading impression in your mind, then the conduct is likely to breach the law. A specific example of this in the massage therapy context would be claims that massage can cure chronic and systemic illnesses such as cancer.

Any unproven claim related to massage therapy, no matter how seemingly benign, could be viewed as potentially misleading or deceptive. This would include claims that massage clears toxins or makes you look younger. In fact, the provisions in the Australian Consumer Law are particularly stringent and strict penalties apply to businesses and individuals who attempt to profit from the desire of vulnerable people to change their appearance or improve their wellbeing.

References

Australian Health Practitioner Regulation Agency website

http://www.ahpra.gov.au/

Australian Competition and Consumer Commission website

http://www.accc.gov.au

Australian Consumer Law website

http://www.consumerlaw.gov.au

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1211 The Australian Legal Information Institute

1212 http://www.austlii.edu.au/

1213

AMT STANDARD - INFECTION CONTROL AND HYGIENE

Purpose

The purpose of this policy is to provide massage therapists with a minimum standard of infection control within the massage therapy clinical context.

Background

Infection control refers to policies and procedures practised in healthcare facilities to minimise the risk of transmitting and acquiring infectious diseases. These diseases are usually caused by bacteria, fungi or viruses and can be spread by human- to-human contact, human contact with an infected surface, airborne transmission through tiny droplets of infectious agents suspended in the air, and by such common vehicles as food or water.

As health service providers, massage therapists have a common law duty of care and ethical responsibility to take all reasonable steps to safeguard clients, staff and the general public from infection.

The risk of exposure to body fluids in the massage therapy clinical context is relatively low. However, the risk of spreading infections such as flu and upper respiratory tract infections is significant, therefore transmission-based precautions are an important addition to standard infection control precautions.

National infection control guidelines

The National Health and Medical Research Council's (NHMRC) Australian Guidelines for the Prevention and Control of Infection in Healthcare (2010) provide recommendations that outline the critical aspects of infection prevention and control. The NHMRC guidelines can be accessed here:

http://www.nhmrc.gov.au/australian-guidelines-prevention-and-control-infection-healthcare

State infection control guidelines

The standards in this policy should be applied in association with official infection control guidelines in your jurisdiction. Please refer to the following websites for further information:

NSW

NSW Health - www.health.nsw.gov.au

Victoria

Victorian Department of Health - www.health.vic.gov.au/infcon/info.htm

Department of Human Services -
www.dhs.vic.gov.au/phd/topics/policy.htm#control

Queensland

Queensland Health - www.health.qld.gov.au/infectioncontrol/

Tasmania

Deaprtment of Health and Human Services - www.dhhs.tas.gov.au/

South Australia

SA Health - www.health.sa.gov.au

Western Australia

Department of Health - www.health.wa.gov.au

Northern Territory

Department of Health - www.nt.gov.au/health/

ACT

Department of Health - www.health.act.gov.au

Policy

For detailed information about how to apply this policy in the clinical context, therapists should refer to the AMT Infection Control Guidelines.

Massage therapists are required to:

- Apply standard precautions (previously referred to as universal precautions)
- Apply transmissions based precautions
- Maintain personal hygiene
- Wash and dry hands before and after client contact
- Use disposable paper towels rather than cloth for hand drying
- Use soap dispensers rather than bar soap
- Keep nails short and avoid wearing any jewellery that may come into contact with clients
- Clean and disinfect the massage table and bolsters after each client
- Use clean linen for each client
- Use clean towels to cover ice/hot packs or other objects that are reused and come into direct contact with clients
- Provide clean, dry storage for clean linen with an appropriate linen rotation system
- Place used linen in a closed container and launder on the day of use. Do not place used linen in direct contact with your body or clothing
- Wash linen in hot water and detergent unless the linen has signs of human body fluid contamination
- Separate soiled linen from all other linen wearing disposable gloves. Wash separately in hot water to 80^0 Celsius constantly for 16 minutes using normal detergent. Alternatively, place in bio-hazard bag and dispose of at the hazardous waste part of your local tip
- Keep lubricants in contamination proof dispensers. Use a disposable spatula to remove product from jar-type containers to avoid cross contamination
- Ensure all products are labelled to prevent using the wrong product
- Cover all cuts, sores and abrasions, and change the covering between each client

- Keep all areas of the workplace clean and hygienic, and document frequency of cleaning procedures
- Have a spills kit available for the management of blood or body fluid spills
- Have a management procedure for accidental exposure to blood or body fluids
- Use personal protective equipment such as gloves when dealing with used linen, clinical waste (used hand towels and tissues) and when performing intraoral massage
- Provide and maintain a first aid kit
- Be well informed about infectious diseases and maintain awareness of local endemics

Do not:

- perform massage if you have an infectious condition that could be transmitted by direct or indirect contact
- treat clients with an infectious condition.

Principles

Successful infection control is based on good hygiene around the range of practices that arise from identifying hazards and implementing risk management for those hazards. This involves understanding:

- the infectious agent
- the work practices that prevent the transmission of infection
- management systems that support effective work practices.

The main principles in preventing the transmission of infection are to:

- identify all possible sources of infection
- care for infected or potentially infected clients in such a manner that transmission of the infection is rendered as difficult as possible
- safely dispose of potentially infective and other injurious material.

References

Beck, MF (2006) ***Theory and Practice of Therapeutic Massage.*** 4th Edition. Thompson Delmar Learning, New York.

Werner, R. (2005). **A Massage Therapist's Guide to Pathology**. 3rd Edition. Lippincott, Williams & Wilkins, Baltimore.

NSW Health website http://www.health.nsw.gov.au/

AMT STANDARD - OCCUPATIONAL HEALTH AND SAFETY

Purpose

The purpose of this policy is to provide massage therapists with a clear benchmark for Occupational, Health and Safety (OHS) procedures in the massage therapy clinical setting.

Background

Occupational Health and Safety refers to the general requirements necessary to ensure a safe and healthy workplace. OHS policies are designed to reduce the number of workplace injuries and illnesses by imposing responsibilities on individuals and organisations.

The broader awareness of massage as a form of preventative health care and rehabilitation has created greater scope for the massage therapist to provide services in diverse settings. Regardless of the environment that massage therapists work in, OHS is an issue for everyone.

It is the responsibility of the massage therapist to take reasonable care for the health and safety of everyone in the workplace and to work in a responsible manner. The massage therapist must be aware of and comply with OHS legislation and any workplace requirements to ensure safe practice. Ignorance is no defence in law.

Legislative context

OHS workplace standards are currently a state responsibility so requirements vary from state to state. However, in 2008 the Council of Australian Governments formally committed to the harmonisation of workplace health and safety laws with a view to establishing a nationally consistent approach to OHS compliance and enforcement policy. COAG has since endorsed the Model Work Health and Safety (WHS) Act and, in late 2010, entered into public consultation with the draft national framework.

The model WHS Act does not supercede existing state requirements.

The standards outlined in this policy should be applied in conjunction with the relevant State or Territory legislative requirements in your jurisdiction. The following is a state-by -state overview of OHS legislation.

National OH&S resources and information

Safe Work Australia - www.safeworkaustralia.gov.au

Comcare - www.comcare.gov.au

Model Legislation:
Model Work Health and Safety (WHS) Act
Safety, Rehabilitation and Compensation Act 1988

State and Territory OHS legislation and resources

ACT

WorkSafe ACT - www.worksafe.act.gov.au/

Relevant Act:
Work Safety Act 2008

NSW

WorkCover NSW - www.workcover.nsw.gov.au

Relevant Act:
Occupational Health and Safety Act 2000

Northern Territory

NT WorkSafe - www.nt.gov.au/deet/worksafe

Relevant Act:

Workplace Health and Safety Act

Queensland

Workplace Health and Safety Qld - www.deir.qld.gov.au/workplace/

Relevant Act:

Workplace Health and Safety Act 1995

South Australia

WorkCover SA - www.workcover.com

SafeWork SA - www.safework.sa.gov.au

Relevant Act:

Occupational Health, Safety and Welfare Act 1986

Tasmania

WorkCover Tasmania - www.workcover.tas.gov.au

Workplace Standards Tasmania - www.wst.tas.gov.au

Relevant Act:

Workplace Health and Safety Act 1995

Victoria

WorkSafe Victoria - www.workcover.vic.gov.au

Relevant Act:

Occupational Health and Safety Act 2004

Western Australia

WA WorkSafe - www.commerce.wa.gov.au/WorkSafe/

Relevant Act:

Occupational Safety and Health Act 1984

Policy

For detailed information about how to apply this policy in the clinical context, therapists should refer to the AMT OHS Guidelines.

Massage therapists are required to:

Waiting room/administration area

- maintain a safe, clean and well ventilated facility
- provide adequate lighting
- ensure appropriate access for the elderly and people with disabilities, including wheelchair access
- provide and maintain toilet and hand washing facilities with temperature control on hot taps, soap dispensers and disposable paper towels
- cover electrical outlets
- provide strong comfortable chairs
- provide non-slip flooring (do not use floor mats or have frayed carpet)
- maintain functioning smoke detectors and fire extinguishers
- be familiar with the location and use of fire extinguishers
- clearly indicate fire exits
- be aware of evacuation plan for emergencies
- keep emergency information posted in plain view near all telephones
- establish a policy regarding the use of open flames, candles and the like
- keep all areas free of obstacles

Clinic area/treatment room

- ensure mandatory cleanliness of clinic area

- provide wheelchair access
- ensure visual and auditory privacy for treatments in accordance with the individual privacy needs of the clients
- provide suitable lighting and ventilation and ensure the clinic area is maintained at a comfortable temperature
- maintain and service heating and ventilation systems/devices and turn off when not in use
- wash hands before/after each client
- use clean linen for each client
- maintain hand washing facilities with temperature control on hot tap
- carry out standard infection control procedures on reusable items (massage table, linen, oil dispenser etc)
- carry out regular safety checks on all equipment including electrical equipment (hydraulic tables, towel caddies, microwave ovens)
- use ergonomic table, stools and supports that comply with relevant Australian standards
- keep lubricants in contamination proof containers, clearly labelled
- obtain material safety data sheets (MSDS) on all products used
- check to make sure that clients are not sensitive or allergic to products used
- provide closed containers for used linen
- be aware that drying linen in a dryer may pose a potential fire hazard due to the presence of any residual oil.
- ensure correct storage and transport of potentially hazardous waste (contaminated linen, used hand towels, tissues)
- provide slip-proof flooring
- keep area free of obstacles for client access and assessment

Storeroom

- store oils and creams in appropriate conditions

- provide clean, dry storage for clean linen with appropriate linen rotation system
- make sure floors are slip proof

Work processes

- use correct manual handling processes when lifting equipment or assisting clients on and off the massage table
- use appropriate body mechanics and techniques when performing massage to prevent muscle strain and overuse syndromes
- maintain healthy hands with exercises for strengthening and stretching
- know contraindications for massage and work within your scope of practice
- take adequate breaks and have realistic workloads
- have appropriate strategies in place for dealing with aggressive clients
- have strategies in place for stress management
- implement anti-bullying, intimidation and harassment policies
- maintain a current first aid certificate
- keep current with industry developments and engage in continuing education activities
- maintain membership of a professional association
- have current professional indemnity and public liability insurance
- document and maintain safety and infection control procedures including an ongoing risk management plan
- have a spills kit available for the management of blood or body fluids spills including the use of personal protective equipment
- be aware of management procedures for accidental exposure to blood or body fluids

Principles

To implement the principles of best practice in OHS, therapists must develop and document OHS policies and procedures specific to the activities carried out in their particular clinical setting. A safe workplace does not happen by chance or guesswork. It requires a systematic approach and is referred to as a Risk Assessment and Management Plan. Typically, this approach follows 4 steps:

1. Identify hazards in the workplace. A hazard is anything (including work practices or procedures) that has the potential to harm the health or safety of a person
2. Assess how people can be hurt and the likelihood of the hazards hurting people (level of risk)
3. Determine the most effective risks control that is reasonably practicable under the circumstances
4. Review your risk controls and evaluate their effectiveness.

Risk assessment and management is necessary to prevent injury and maintain workplace safety. It ensures that the highest level of protection is in place for both the therapist and the client.

AMT STANDARD - DRY NEEDLING

Purpose

The purpose of this policy is to provide massage therapists with a clear understanding of the statutory requirements associated with the practice of Dry Needling, and the minimum educational standard required to perform needling in the massage therapy clinical setting.

Background

Dry Needling refers to the practice of inserting acupuncture needles into trigger points to treat myofascial pain and dysfunction. It is based on western anatomical and neurophysiological principles and, as such, must be distinguished from the practice of acupuncture, which is based on the principles of Traditional Chinese Medicine.

Since Dry Needling involves penetration of the skin - the body's first line of defence against infection – massage therapists who practise dry needling must have a thorough knowledge of infection control policy and procedure. This includes at least basic knowledge of microbiology and modes of disease transmission. Specific knowledge of Occupational Health and Safety requirements in relation to the handling, use and disposal of sharps is also critical to the safe and ethical practice of Dry Needling.

Since needling is an invasive procedure, massage therapists need to be particularly vigilant in complying with all relevant legal statutes and guidelines, obtaining informed consent and working strictly within the scope of their training and knowledge.

Qualifications

Massage therapists who practice Dry Needling must hold a nationally recognised Diploma or Advanced Diploma (AQTF standard). If Dry Needling is learnt at a post-graduate workshop, practitioners must complete a minimum of 60 hours of face to face training and 15 hours of supervised clinical practice, the content of which must include comprehensive training in Infection Control and Occupational Health and Safety principles. Practitioners must also demonstrate a thorough knowledge of Skin Penetration legislation.

Statutory requirements

Specific Skin Penetration Acts are in force in NSW, ACT and Western Australia. Practitioners in these states will need to comply with the terms of their relevant State Skin Penetration Act, including the Infection Control and Occupational Health and Safety principles laid out in the legislation. Full text of the relevant Acts and Regulations is available online from the Australian Legal Information Institute (see website links below).

Under the terms of this policy, Dry Needling practitioners in Queensland, South Australia, Victoria, Tasmania and the Northern Territory will need to be able to demonstrate compliance with the requirements of the NSW Public Health Skin Penetration Regulation 2000, under the Public Health Act 1991, including the Infection Control and Occupational Health and Safety principles laid out in the legislation.

The following is a state-by state overview of legislation and codes that apply to the practice of Dry Needling. The standards in this policy should be applied in association with official statutes and guidelines in your jurisdiction.

NSW

Public Health Skin Penetration Regulation 2000

http://www.austlii.edu.au/au/legis/nsw/consol_reg/phpr2000392/

NSW Health Skin Penetration Code of Best Practice

http://www.health.nsw.gov.au/public-health/ehb/general/skinpen/cobp_skin_pen.pdf

ACT

Skin Penetration Procedures Act 1994

http://www.austlii.edu.au/au/legis/act/num_act/sppa1994104o1994356/

Queensland

Environmental Protection (Waste Management) Regulation 2000

http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/qld/consol_reg/epmr2000532/s49.html?query=skin%20penetration

Victoria

Health (Infectious Diseases) Regulations 2001

http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/vic/consol_reg/hdr2001362/s25a.html?query=skin%20penetration

South Australia

Guidelines on the Safe and Hygienic Practice of Skin Penetration

http://www.health.sa.gov.au/pehs/publications/skin-penetration-guide-10feb05.pdf

Western Australia

Health (Skin Penetration) Procedure Regulations 1998

http://www.austlii.edu.au/au/legis/wa/consol_reg/hppr1998449/

Policy

For detailed information about how to apply this policy in the clinical context, therapists should refer to the AMT Dry Needling Guidelines.

Massage therapists are required to:

Premises

- ensure that the treatment area is constructed of suitable materials. All floors, floor coverings, walls, ceilings, shelves, fittings and other furniture should be smooth, impermeable and easily cleaned. Flooring should be of a colour and type that allows for easy identification and removal of sharps should they be dropped.
- provide adequate lighting
- register the premises with the local authorities (municipal council).

Infection control

- comply with the infection control statutes and guidelines in your state
- demonstrate knowledge of and compliance with standard infection control precautions
- use single-use equipment (needles, swabs and gloves)
- disinfect the area of skin to be penetrated.

Hand washing

Hands must be washed

- before and after working with a client
- after visiting the bathroom
- after smoking
- after meal breaks
- after blowing your nose or touching any part of your body
- after handling soiled equipment including jewellery, towels and cloths
- before putting on and after removing gloves
- after contact with blood or body substances
- whenever hands are visibly soiled
- any other time you believe infection risks are apparent.

Handling and disposal of sharps

- place sharps in an Australian Standard (AS 4031) specified, disposable sharps container immediately after use.
- seal and dispose of sharps containers in accordance with the environmental protection authority requirements in your state. Disposal of sharps into the general waste stream is dangerous and illegal.
- ensure that there is an accessible sharps container for the disposal of sharps as close as practical to the point of generation.
- ensure that the sharps container is not accessible to clients and visitors, particularly children
- ensure that sharps containers are not overfilled
- ensure that sharps are not forced into the sharps container
- retain records of hazardous waste disposal for three years on the business premises where it was generated. Records including the generation, storage, treatment or disposal of the waste is required.

Informed consent

- obtain written informed consent for Dry Needling
- advise the client of the evidence-based and conventional treatment options, their risks, benefits and efficacy, as reflected by current knowledge.

Record-keeping

- keep records of the date, time and details of the specific Dry Needling procedures performed.

Do not:

- practice Dry Needling in carpeted treatment areas

- use needles if you are a mobile practitioner
- reuse any Dry Needling equipment
- dispose of sharps into the general waste stream
- perform needling without written informed consent
- claim you are doing acupuncture when you perform needling.

AMT STANDARD - TREATMENT OF MINORS

Purpose

The purpose of this policy is to provide massage therapists with a clear understanding of their legal and ethical responsibilities in relation to working with minors.

Background

Child protection is covered under State legislation in Australia. As such, there is no single national framework setting out the requirements for obtaining Working With Children Checks or Police Checks. Each state and territory has its own procedures. It is therefore necessary to fulfil the requirements that are in effect in your specific jurisdiction.

Mandatory reporting of child abuse and neglect

Mandatory reporting is the legal requirement to report suspected cases of child abuse or neglect. Since child protection is a state responsibility, the designated groups of people mandated to notify their concerns to the appropriate statutory child protection authority - known as mandatory reporters - differs between states.

Massage Therapists are included under the definition of Mandatory Reporters in NSW, South Australia and Northern Territory. However, regardless of the statutory requirements, AMT believes that Massage Therapists have an ethical duty to report suspected child abuse or neglect to the appropriate statutory child protection authority in their state.

Statutory requirements

The following is a state-by -state overview of the legal requirements for Massage Therapists working with children, including mandatory reporting requirements.

ACT

In the ACT a minor is legally defined as a person less than 16 years of age.

There is currently no legal statute in the ACT requiring Massage Therapists to undergo a Working with Children or Police Check. Individual employers may have a screening process in place.

Massage therapists are not defined as mandatory reporters in the ACT.

Relevant Act:

Children and Young People Act 2008

NSW

In NSW a minor is legally defined as a person less than 16 years of age. However, the NSW Working with Children Check provisions apply to persons less than 18 years of age.

The NSW Working With Children Check is an employer driven "point-in-time" system entailing background checks of employees and the exclusion of prohibited persons from child-related occupations. This check would only apply to Massage Therapists employed in childcare settings, such as childcare centres, schools and pediatric wards, and the screening would be undertaken by the employer.

From 1 May 2011, self-employed massage therapists who have direct unsupervised contact with minors in their practice will need to obtain a Certificate for Self-Employed People. However, please note that AMT requires therapists to have a parent, legal guardian or caregiver present at all times during treatment.

Please visit the NSW Working with Children website for information about how to apply for a Certificate:

https://check.kids.nsw.gov.au/#self-employed

Massage therapists fall under the definition of Mandatory Reporters in NSW. This means that Massage Therapists are legally required to report suspected child abuse to the NSW Department of Community Services.

Relevant Act:

Children and Young Persons (Care and Protection) Act 1998

Victoria

In Victoria a minor is legally defined as a person less than 18 years of age.

Massage Therapists are not currently captured by the Victorian Working with Children Act. A Working with Children Check would only apply to Massage Therapists who are employed in childcare settings, such as childcare centres, schools and pediatric wards, in which case a Working with Children Check would be required. Please visit the Victorian Working with Children website for information about how to apply:

http://www.justice.vic.gov.au/workingwithchildren

Massage therapists are not defined as mandatory reporters in Victoria.

Relevant Act:

Working with Children Act 2005

Queensland

In Queensland a minor is legally defined as a person less than 18 years of age.

Massage Therapists are required to apply for a Working With Children Check, known as a "Blue Card". Valid for two years, Blue Cards entitle individuals to engage in child-related occupations/volunteering.

The Queensland Blue Card is administered by the Commission for Children, Young People and Child Guardian. Please visit the CCYPCG website for information about how to apply:

http://ccypcg.qld.gov.au

Massage therapists are not defined as mandatory reporters in Queensland.

Relevant Act:

Child Protection Act 1999

South Australia

In South Australia a minor is legally defined as a person 18 years or less.

Under the Children's Protection Act 1993, all organisations that provide health services wholly or partly to children must lodge a statement outlining their child safe environment policies and procedures with the Department for Families and Communities.

Self-employed massage therapists fall under the definition of a health service organisation and are therefore required to lodge the child safe environment compliance statement. This compliance statement sets out the minimum requirements your organisation/business must meet to demonstrate that

appropriate policies and procedures are in place to establish and maintain a child safe environment.

Massage therapists can lodge a compliance statement online or download the relevant documentation from the Department for Families and Communities (DFC) website:

http://www.dfc.sa.gov.au/pub/Default.aspx?tabid=927

The DFC website includes information and templates to assist organisations in developing child safe policies and procedures.

The Department of Families and Communities is also phasing in a requirement for employers to conduct criminal history assessments on staff and volunteers working with children. For massage therapists employing staff and/or volunteers, this requirement will be phased in from 1 January 2012 to 30 June 2012.

Self-employed massage therapists are not required to undergo a criminal history check, but may choose to do so voluntarily.

Massage therapists fall under the definition of Mandatory Reporters in South Australia. This means that Massage Therapists are legally required to report suspected child abuse to the Department of Children, Youth and Family Services.

Relevant Act:

Children's Protection Act 1993

Western Australia

In Western Australia a minor is legally defined as a person less than 18 years of age.

Massage Therapists are not currently captured by the West Australian Working with Children Act. A Working with Children criminal check would only apply to Massage Therapists who are employed in childcare settings, such as childcare centres, schools and pediatric wards, in which case a Working with Children Check would be required. Please visit the WA Working with Children website for information about how to apply:

http://www.checkwwc.wa.gov.au/checkwwc

Massage therapists are not defined as mandatory reporters in Western Australia.

Relevant Act:

Working with Children Act 2004

Tasmania

In Tasmania a minor is legally defined as a person less than 18 years of age.

There is currently no legal statute in Tasmania requiring Massage Therapists to undergo a Working with Children or Police Check. Individual employers may have a screening process in place.

Massage therapists are not defined as mandatory reporters in Tasmania.

Relevant Act:

Children, young persons and their families Act 1997

Northern Territory

In the Northern Territory a minor is legally defined as a person less than 18 years of age.

From 1 March 2011, the Working with Children Clearance Notice applies to Massage Therapists seeking employment in childcare settings such as childcare centres, schools and pediatric wards. For information on how to apply, please visit the Northern Territory Working with Children website

http://www.workingwithchildren.nt.gov.au/

Anybody with reasonable grounds is legally required to report child abuse or neglect in the Northern Territory to the Department of Health and Families.

Relevant Act

Care and Protection of Children Act 2007

Policy

When treating a minor, massage therapists are required to:

- comply with relevant local statutes relating to child protection, mandatory reporting and working with children
- seek informed consent for treatment from a parent, legal guardian or caregiver
- have a parent, legal guardian or caregiver present throughout the treatment
- report suspected child abuse to the appropriate statutory child protection authority in your state.

Do not:

- have unsupervised contact with a minor.

Principles

Therapists should be mindful of the following principles in relation to the treatment of minors:

- **Children are people too**. Involve minors in the decision-making process as much as possible. Empower children by explaining the treatment in age-appropriate terminology and seek consent for treatment from them too, wherever practicable.

- **Respect boundaries**. Children may feel uncomfortable about some elements of the treatment, such as removing clothing or lowering/adjusting underpants to access the lower back muscles, and working close to the groin and buttocks. Look for signs of discomfort and be flexible in your approach. Develop strategies that enable you to work with the particular sensitivities of your client.

References

NSW Working with Children Check website

Victorian Department of Justice website

Queensland Commission for Children and Young People and Child Guardian website

West Australian Working with Children check website

Northern Territory Working with Children website

The Australian Institute of Family Studies website

The Department of Families and Communities website.