

Practising in a non-clinical environment

Understanding and meeting the professional challenges

Osteopaths are sometimes asked to practise, or volunteer to practise, in non-clinical environments such as sports venues and other outdoor locations. But practising in these environments can present difficulties, and the GOC Professional Conduct Committee recently considered a complaint about the treatment provided by an osteopath at an open-air festival.

The Committee noted that practising in a non-clinical environment can throw up challenges including:

- providing treatment in circumstances where other patients and members of the public are in close proximity
- working alongside a variety of therapists who may not be subject to the standards required of a registered osteopath
- arranging to treat therapists of different disciplines in exchange for treatment from them, in an informal arrangement which may result in treatment of a lower standard than a patient is entitled to expect
- operational pressures placed on practitioners by festival organisers, which may conflict with the requirements of the *Osteopathic Practice Standards*
- the informal atmosphere and dress code, which have the potential to undermine and blur professional boundaries
- the lack of specific appointment times or durations, meaning that patient interactions are largely ad hoc with patients queuing close by
- difficulty in maintaining records.



The Committee recommended that any osteopath who chooses to practise in these environments should ensure that they adhere to the Osteopathic Practice Standards.

The applicable parts of the *Osteopathic Practice Standards* (www.osteopathy.org.uk/resources/publications/standards-of-practice) include:

D11 – Be aware of your role as a healthcare provider to promote public health

D13 – Comply with health and safety legislation

These Standards include the requirements that your treatment premises are clean, safe, hygienic and appropriately equipped, and that you have appropriate procedures in place in the event of a medical emergency.

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You should also consider whether your public liability insurance and professional indemnity arrangements cover any treatments you provide in a non-clinical setting.

C6 – Respect your patients' dignity and modesty

Think about the practical arrangements that may be required if a patient needs to remove any clothing before you can examine or treat them.

Think about how some patients might feel if members of the public and complete strangers were able to observe the treatment being carried out.

D6 – Respect your patients' right to privacy and confidentiality

Think about the risk of people overhearing confidential information about a patient's medical conditions while you obtain a case history.

Think about how you can ensure that patient information and records are kept secure at all times.

Remember, you are answerable to the Information Commissioner for data breaches involving the loss of a

patient's personal data. The Information Commissioner's Office has the power to impose significant fines.

C8 – Ensure that your patient records are full, accurate and completed promptly

In all settings, clinical and non-clinical, it is equally important that you keep proper records

Even with the pressure of other patients waiting outside, you should ensure that you draw up comprehensive notes which can be easily understood by another healthcare practitioner, in the event that your patient needs further treatment or suffers an adverse reaction to your treatment.

You may also want to consider how best to keep track of financial transactions.

D16 – Do not abuse your professional standing

D17 – Uphold the reputation of the profession through your conduct

Whatever the level of formality that may exist outside the clinical setting, you must ensure that you maintain clear and appropriate boundaries with your patients at all times.

C7 – Provide appropriate care and treatment

Paragraph 2 of the guidance to this Standard states:

'Patients are entitled to expect professional care and treatment wherever you are treating them. When you are treating someone outside your usual consulting rooms, you should:

- 2.1 Note in your records where the consultation took place.
- 2.2 Where possible, apply the same standards as in your normal practice environment.'

So if you are considering working in any environment that is outside the bounds of your usual practice, do think in advance about how you can provide appropriate care which meets your overall professional obligations to your patients as an osteopath.

These obligations extend to ensuring that any patient you treat knows how to contact you after the event, if they wish to discuss any aspect of their treatment or raise a concern.



Patient information

Figures recently published by the Information Commissioner's Office (ICO) show that more than 40 per cent of all data security incidents considered by the ICO in the first half of 2014 related to the health sector.

The importance of preserving the confidentiality of patient data is emphasised in the *Osteopathic Practice Standards*.

Standard D6 and the associated guidance require you – and any staff you employ – to:

- > keep confidential the identity of your patients and other information about them
- > ensure that such information is securely protected against loss, theft and improper disclosure.

Think about the arrangements you have in place to ensure that your patient information and data is secure.

In particular, think about who has access to patient information in your practice, and what arrangements you need in place to cover circumstances in which an employee or associate leaves your practice.

This is an issue that affects all healthcare professions.

In December 2013, the ICO prosecuted the former manager of a GP practice after he unlawfully accessed the medical records of nearly 2,000 patients over 14 months for personal use.

In November this year, the ICO prosecuted a pharmacist who unlawfully accessed the medical records of family members, work colleagues and local health professionals.

Unlawfully accessing personal data is a criminal offence under section 55 of the *Data Protection Act 1998*.

The ICO has a wealth of advice and guidance on data protection issues

on its website at: www.ico.org.uk
The GOsC sometimes gets complaints from osteopaths alleging 'theft' of patient information, including contact details, by another osteopath who has left the practice.

In many of these situations, osteopaths at the start of a commercial relationship have not established exactly who owns the paper or electronic records, or who has the right to access these records, with any precision or legal certainty.

It is very important that you clearly identify the rights and responsibilities of all parties in relation to patient records and information governance. You should seek advice from your professional association, insurers or legal representatives on the best means of doing so.

Capacity to consent

In response to feedback from osteopaths, we have published a set of scenarios to help you apply our existing guidance on patients' capacity to give consent for examination or treatment.

The three scenarios have been developed with the assistance of members of the profession, to help you deal with typical challenges in practice – such as identifying whether an adult is in a position to give consent on behalf of a child.

For each scenario, we outline the issues raised, set out the relevant law and guidance, and provide advice on dealing with the situation.

You can find the scenarios and the 'capacity to consent' guidance on the **o** zone at:

www.osteopathy.org.uk/ozone/practice-guidance/Osteopathic-practice-standards/Obtaining-consent-guidance/



Maintaining boundaries with patients

In a recent case, the GOsC's Professional Conduct Committee ordered the removal of an osteopath's name from the Register of Osteopaths for breaching professional and sexual boundaries. The case is a salutary reminder of the importance of respecting and maintaining appropriate boundaries with patients at all times.

The Committee found that the registrant had breached patient/practitioner boundaries over a period of years, including by:

- > reducing the cost of consultations to a nominal sum and, on occasion, to nothing
- > increasing the length of the consultations with the patient
- > inviting the patient to his gym and arranging passes to classes at the gym for her
- > exchanging gifts with the patient
- > making inappropriate comments about the patient's appearance.

The Committee noted that, in isolation, some of these actions might not necessarily transgress professional boundaries. However, in the Committee's judgment, the totality of the behaviour meant that the registrant had crossed the line delineating appropriate patient/practitioner boundaries.

The Committee concluded that the

registrant's behaviour constituted a breach of his proper role and the necessary degree of separation needed between a patient and a practitioner. Over a prolonged series of consultations, the registrant had established *a pattern of behaviour with the patient*, on his part becoming over-familiar, which had developed into his transgressing professional boundaries.

It also found that, over a prolonged series of consultations, the registrant and the patient had fallen into an accepted way of working which did not conform to expected standards. This included a failure by the osteopath to offer the patient a chaperone, or to provide towels or gowns.

The Committee found that over time the behaviour became sexualised and boundaries were clearly transgressed. The Committee stated:

'The registrant's failings in this case are numerous and wide-ranging over

a prolonged period of time. The sexual misconduct perpetrated by the registrant on his patient is a gross violation of the position of trust an osteopath occupies in relation to their patients. There is no doubt in the Committee's judgment that the registrant's actions caused harm to Patient A. Further, such serious conduct of this kind undermines the reputation of the profession and the trust and confidence which the public is entitled to expect in osteopaths. In addition, the Committee is satisfied that this conduct would be regarded as deplorable by fellow practitioners. The registrant allowed proper professional boundaries between himself and Patient A to break down over time and as this broke down embarked upon conduct that was for his own sexual gratification.'

The Committee concluded that unacceptable professional conduct, which includes sexual misconduct, is *'fundamentally incompatible with registration as an osteopath'*.

Threshold criteria consultation

Time is running out to have your say on our new draft guidance to help decision-makers determine whether complaints about registrants' conduct should be referred to formal hearings.

Our consultation on the guidance – which contains 'threshold criteria' setting out the types of complaints and allegations that should not be referred to hearings – closes on **31 December**.

To read the draft guidance and take part in our consultation online, see our website at:

www.osteopathy.org.uk/about/our-work/consultations-events/Draft-guidance-on-threshold-criteria/



General
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