

Why have I been touched there?

Guild Insurance sees numerous allegations against osteopaths each year where the patient claims the osteopath has touched them in an inappropriate sexual way during treatment.

Receiving and dealing with these types of allegations can cause a great deal of stress and anxiety for an osteopath. In most cases, investigations show the osteopath hasn't behaved inappropriately and has provided treatment which is clinically justified. So why would patients make these allegations?

Case example one

A patient presented complaining of jaw pain and an unstable pelvis and coccyx following childbirth. The osteopath provided a range of assessments and treatments to her spine, jaw and pelvis. Following treatment, the patient complained to AHPRA alleging the osteopath had not provided her with adequate privacy to undress and dress, and that the towel used to cover her whilst on the treatment table was

too small. She also complained that she didn't consent to the treatment provided around her pelvic region. Overall the patient felt quite vulnerable and uncomfortable throughout the consultation.

Case example two

A patient presented with back pain. During the consultation the osteopath treated, amongst other areas, the patient's adductor muscles. The patient complained to AHPRA saying he felt violated and didn't understand why he needed to be touched 'down there' to help treat his back pain. It was found that the osteopath did gain consent to treat the adductor muscles, however the patient didn't understand where the adductor muscles are located.

How can these allegations be avoided?

Be mindful when asking patients to undress

It is generally accepted that removal of clothing is often required for osteopathy assessment and treatment. However, it

doesn't automatically mean your patients will understand the reasons for it, feel comfortable doing it, or like it.

When asking patients to remove clothing:

- Consider raising this before the appointment, allowing the patient to come prepared. Information about the need to remove clothes could be available on the practice website as well as mentioned by the receptionist when a new patient is booking in for their first appointment.
- Be very clear about what you want them to remove and what they should leave on. Simply asking them to undress is likely to cause confusion and apprehension.
- Be sure you explain to patients why you would like them to remove their clothing, keeping in mind it may not be obvious to them.

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- Give them privacy when undressing and dressing by either having a screen for them to go behind, or by leaving the room, even if they aren't removing much. Simply turning your back is not acceptable.
- Provide the patient with clean towels and/or gowns to keep covered the parts of their body not being treated. Please note, these must be of a sufficient size to protect the patient's modesty.
- If moving or adjusting the patient's clothing during treatment, such as unclipping a bra, seek the patient's consent before this is done, and ensure you offer to re-clip/re-position the clothing afterwards.

Gender is irrelevant

It's easy to think that allegations of inappropriate touching are predominately issues when treating patients of the opposite gender. However, this isn't the case. Regardless of your and the patient's gender, there is always a possibility for the patient to feel uncomfortable during treatment. The way you explain treatment to patients and seek their informed consent should not differ based on the patient's gender.

How soon is too soon?

There are varying degrees of touching patients. Some treatment techniques will be closer to sensitive and private areas which may make a patient feel uncomfortable. Therefore, consideration should be given as to how soon after meeting a new patient should particular treatment techniques be used. As there are no rules around this, osteopaths should use their professional judgement when determining appropriate and inappropriate technique choices for their new patients; even if the patient gives consent. An effective approach to introducing new techniques is to discuss the option at one appointment, yet implement the technique at a later one, giving the patient time to consider it.

Informed consent to treatment

All osteopaths should be aware of their professional obligation to ensure a patient has given their informed consent prior to assessment and treatment beginning.

For a patient to be able to give informed consent, they need to have had the assessment and treatment explained to them in a manner they understand. This means avoiding clinical language which may be confusing whilst providing the risks and benefits to what you are proposing and allowing time for the patient to ask questions. As osteopathy is very hands on, it's important to clearly explain to patients where they're going to be touched, and why. It may even require you to demonstrate on yourself exactly where you're referring to. Remember that in some cases you won't directly touch the patient where they feel the pain, so the treatment area may not be obvious to the patient. Keep in mind that even after treatment has commenced, informed consent isn't just about the patient being informed, it is about them continuously consenting, therefore they may decline to give their consent or withdraw consent if they don't feel comfortable at any time.

Signed consent forms should be considered, especially for treatment to particularly sensitive or private areas. However, asking a patient to sign a consent form DOES NOT replace discussing the treatment process with them.

Record keeping

Record keeping is a professional requirement which serves a number of purposes. Detailed and accurate clinical notes allow for continuity of patient care. They also provide evidence of what took place during a consultation, and why.

If a patient alleges they have been touched inappropriately, the osteopath's clinical record will be examined for evidence of what treatment was provided and the clinical justification for this. The clinical record should contain evidence of the patient consenting to the treatment. Without this information in the clinical record, it becomes very difficult for the osteopath to defend their actions.

Don't make assumptions

As with any professional, osteopaths can become overly familiar with what they know and do every day. However, they must remember that patients won't have that level of familiarity when it comes to

osteopathy. Regardless of how many times an osteopath has treated a patient, they should never make assumptions about what the patient will understand about treatment, be comfortable with and be willing to consent to. Treatment always needs to be explained to patients, even if they've received that treatment before.

Consider the patient's demeanour

Whilst it isn't expected that an osteopath can be sure of what a patient is thinking and feeling just by their body language, we all have the ability to gauge when a person is feeling uncomfortable with a situation. If you have a patient who appears to not be comfortable with the treatment being suggested or carried out, stop what you're doing and assess the situation. You may need to further explain the treatment so it's better understood. You may need to reposition clothing or towels so the patient is more adequately covered. Or you may need to remind the patient that they don't have to consent to treatment being proposed and discuss other treatment options. It is also worth informing patients that they can bring a support person, such as a friend or relative, into the treatment room with them if that would make them feel more comfortable.

Talking whilst treating

Osteopaths are recognised as being very personable and friendly health professionals. Whilst this can be very beneficial in terms of building relationships with patients, it can also have its downside. Although having non-treatment related chats with a patient during treatment is acceptable, there will be occasions when the chatting should cease so further information about treatment can be discussed. It is far too easy to forget what has and hasn't been explained, and consented to, when continually chatting whilst treating.

Osteopathy Australia has created very useful resources to assist the profession understand what should be done to avoid an allegation of inappropriate behaviour. To access this information please visit Osteopathy Australia's website at osteopathy.org.au



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