

CHCLEG003 Manage legal and ethical compliance

This unit describes the skills and knowledge required to implement and monitor compliance with legal and ethical requirements relevant in the work area.

Upon completion of this unit, the student should have the following:

- *Essential knowledge:*
 - Legal and ethical requirements and responsibilities as they relate to specified work role(s)
 - Industry code(s) of practice where applicable
 - Client rights and responsibilities
 - Organisation policy and procedures for complaints handling
 - Relevant federal, state, territory and local government legislation affecting role and duties
 - Law of consent to medical treatment

- *Essential skills:*

Ability to:

- Demonstrate, model and monitor work activities in compliance with legal and ethical requirements and organisation policies and procedures, including: meeting requirements for provision of duty of care, working in accordance with legislation relevant to the workplace and specific work functions, demonstrate respect for clients' rights
- Conduct compliance monitoring activities
- Apply reading and writing skills (literacy competence) required to fulfil job roles in a safe manner and as specified by the organisation
- The level of skill required includes: reading and interpreting organisation policy and procedure manuals and industry codes of practice, literacy in English or a community language depending on the language used in pamphlets or workplace manuals
- Apply oral communication skills-language competence required to fulfil job roles in a safe manner and as specified by the organisation:
- Assessors should look for skills in:
 - asking questions
 - providing clear information
 - listening to and understanding workplace instructions
 - clarifying workplace instructions when necessary
- Use effective verbal and non verbal communication skills with a range of internal and external persons, which may involve competence in English or a community language, depending on client group
- Use problem solving skills as required to interpret and apply policy in the workplace, develop procedures and monitor practices

Maintain ethical work practices

Rule	A principle or guideline for conduct and behaviour.
Law	A legal rule or set of rules based on the rights of citizens and their responsibilities in respect of others.
Legislation	Also known as 'statute law', 'statutes' or 'acts of parliament', legislation is the documentation of laws created, debated and passed by federal and state parliaments.
Common law	Also known as 'statutory law', it is law which is the judgment of the courts or laws made in court.
Ethics	Codes or standards of behaviour that are based on a shared understanding of what is right or wrong.
Duty of care	A concept which covers the protection and safety of others in your care, protecting them as far as is 'reasonably practicable'.
Regulations	Rules that have the force of law detailing procedures for implementing governmental legislation.
Statute	Another word for legislation.

Understanding legislation and common law

Overview of the Australian legal system

This section is a very brief overview of the Australian legal system. The major reference source for this section has been *Making and Breaking the Law* by Jules Aldous (2nd edition). Other information has come from the many web sites on law related matters. These are all listed in Section 3 of this unit.

Here we cover:

- What is the difference between rules and laws?
- What types of laws are there?
- How are laws made?

In Australia law making is primarily the responsibility of the federal and state parliaments. Courts are responsible for interpreting the meaning of the law and resolving and adjudicating disputes. There are various bodies that enforce the law and others that administer it. Solicitors and barristers assist the general public in their dealings with the legal systems.

What is the difference between rules and laws?

A rule is usually thought of as a principle or guideline for conduct and behaviour. It is a convention or practice that is held by a group or an individual as appropriate for certain action or conduct.

Rules do not have to be written down (although some are) and may not be subject to punishment if broken. For example, an organisation can develop a set of rules for how its members should dress or behave.

There will be rules for handling equipment and for putting things away at the end of their use. Sanctions for breaking these rules will vary from a friendly reminder, a fine or perhaps a warning whereby three warnings means you are asked to leave the organisation.

Rules such as these are 'non legal' although some will come close to law. In following the rules for handling a piece of industrial equipment you are likely to be the subject of occupational health and safety law or legislation. If there are rules covering the use of the staff lounge room then these are more likely to be your own organisation's rules rather rules derived from law.

Laws are legal rules. In Australia our laws are based on the rights of the citizens and their responsibilities in respect of other community members and the government itself. The authority of the law is upheld in Australia through the electoral process, representative government and the jury system.

→ In Australia, the law consists of:

- Acts passed by the Federal Parliament;
- Ordinances made in respect of the Territories (Northern Territory, ACT and Norfolk Island);
- Acts passed by state parliaments and the Legislative Assemblies of the Territories;
- Common or statute law of England that was received prior to Federation and that still applies because it remains unrepealed, and Australian common law, which developed from English common law and is interpreted and modified by the courts.

There are a number of different ways to identify and name types of law and no one method of classifying law is sufficient to cover all of its complexity.

We can classify laws in different ways depending on what our focus is.

How are laws made?

Laws can be made by:

Parliament. These laws are known as statute law or legislation, or acts of parliament. The rules and procedures that fall out of these are called regulations, orders-in-council and local laws.

Courts of law or the judiciary also have the role of making law. This occurs via the interpretation of the meaning of statute law as it is applied to different cases that come before the courts. This is called 'common law' or 'statutory interpretation'.

Laws and regulations that apply to your organisation

Federal and state laws

Your organisation will be subject to both federal and state laws. Lots of organisations are subject to many of the same laws, but specific laws apply depending on the sector in which the organisation works. Youth sporting clubs, for example, will be subject to laws about the protection of children and duty of care whereas emergency services organisations will have extremely strict guidelines that are associated with various occupational health and safety acts.

An organisation such as the Salvation Army, for example, is subject to many areas of law and regulation because of the breadth of its programs. These include laws and regulations associated with:

- Aged care services
- Alcohol and drug addiction detoxification services
- Business regulations governing the Salvation Army Family Stores
- Child and adolescent services
- Counselling services
- Crisis accommodation services
- Disability services
- Employment training programs
- Family housing programs
- Fundraising
- Health information services
- Homeless shelters
- Intellectual disability services
- Migrant services
- Privacy
- Youth crisis and support services

(See <http://www.salvationarmy.org.au/students/society.asp>)

There are laws and regulations that apply to any organisation no matter what its business is. These include:

- State occupational health and safety laws and regulations
- Laws and regulations on employment
- Human rights legislation

The privacy acts of federal and state governments

State laws on the legal entity of your organisation whether it is an incorporated association or a company limited by liability

Fulfil duty of *confidentiality* to the client, both at law and under professional code of ethics

Confidentiality of client information must include:

- Verbal
- Written i.e. medical records, referral/request
- Video/audio tapes

- Radiographic films and images
- Computer files

Ensure the collection, use and *disclosure of client information* is consistent with information privacy principles

Privacy and confidentiality

The Commonwealth Government Privacy Act of 1988 was amended in 2000 with the addition of new provisions for private sector business, health service providers and commonwealth and ACT government agencies. The 'private sector' includes not-for-profit organisations with an annual turnover of more than \$3 million. The legislation applies to all health service providers regardless of turnover.

It should be noted that all states and the Northern Territory have legislation concerned with privacy, but we will only deal with the federal act here. For information on state laws check the web site at:
<http://www.law4u.com.au/>

Within the new privacy act are ten national privacy principles covering the following areas:

1. Collection — Describes what an organisation should do when collecting personal information. This includes rules about what information can be collected, collecting information about a person from someone else and, generally, what information you should give the person about the collection.
2. Use and Disclosure — Outlines how organisations can use and disclose personal information. An organisation does not always need consent to use and disclose information if they meet other conditions. There are special rules about direct marketing.
- 3 & 4. Data Quality & Data Security — Sets the standards that organisations must meet for the accuracy, currency, completeness and security of personal information.
5. Openness — Requires organisations to be open about their privacy policy. Organisations must give clients certain information about the way they handle personal information in their organisation if the client asks for it.
6. Access & Correction — Gives the client of the organisation a general right of access to their own personal information, and the right to have that information corrected, if it is inaccurate, incomplete or out of date.
7. Identifiers — Outlines that the use of commonwealth government identifiers (such as a Medicare number or a Veterans Affairs number) be only be used for the purposes for which they were issued.
8. Anonymity — Where possible, organisations must give clients the opportunity to 'do business' without them having to identify themselves.
9. Transborder Data Flows — Outlines privacy protections that apply to the transfer of personal information out of Australia.
10. Sensitive Information — Requires the client's consent when an organisation collects sensitive information such as health information, information about racial or ethnic background or criminal record. Sensitive information is a subset of personal information and special protection applies to this information.

These principles are available in full at: <http://www.privacy.gov.au/publications/npps01.html>

Disclosure of client information may include:

- When a client consents to disclosure
- When other health care workers need to know information to complete appropriate treatment and care
- When disclosure of information is required by law
eg some infectious diseases, suspected or known child abuse

Ensure the *rights of clients* are recognised and respected throughout all stages of tests/procedures

Client's rights may include:

- Treatment with reasonable care and skill
- Right to refuse medical treatment

- Confidentiality of information
- Access to information held about them including medical records, registers
- Right not to be discriminated against
- Right to make a complaint
- Right to be involved in decisions regarding treatment and care

Client rights

Identifying your clients

The most common definition of 'client' is someone who pays for products and services.

- Often an organisation has several clients. A not-for-profit organisation in the community services sector, for example, may identify the following as clients:
- The users of the organisations services, for example, people with a disability or unemployed youth
- The users' parents or legal guardian or advocate
- The local community
- The government department that provides funding for the provision of some of the organisation's services and expects certain outcomes for its money
- A philanthropic foundation that funds the organisation and expects certain standards or codes of practice
- Other funding bodies

Identifying client rights

Just as the not-for-profit organisation and the people who work in it have rights and responsibilities towards each other, so do the clients of such organisations. Clients will also have responsibilities.

In other sectors such as sport and recreation or emergency services or education the rights of clients are those of any citizen of Australia. Part of the role of a therapist in any organisation is to ensure that the rights of their clients are upheld.

Rights may include:

- Privacy
- Confidentiality
- Freedom of association
- Informed and negotiated choice

To lodge a complaint

- To express ideas and opinions
- Access to services
- An agreed standard of care

An excellent overview of human rights can be found at the web site of the Human Rights and Equal Opportunity Commission at: <http://www.hreoc.gov.au>. Click on 'Human Rights Explained'.

Managing complaints: policies and protocols

The first thing to remember about a complaint is that it is an opportunity to improve your service. Dealing with a complaint successfully can mean that the client who complained can be turned into a champion for your organisation. You will also come to understand your clients needs more fully and are likely to improve your reputation. What works well is a complaints handling system, so check whether your organisation does have a documented process for dealing with complaints. It may sound odd, but it should be easy for a client to complain! The following are points to keep in mind when handling a complaint.

- Be sympathetic and calm, even if you do not think the complaint is justified
- Acknowledge that there is a problem and listen
- Clarify facts
- Write down the complaint and confirm this with the client
- Ask them what they want you to do and write this down, too
- Depending on the scope of your job role, you may be able to meet the client's needs at this point or you will need to refer the complaint to someone else in the organisation
- Tell the client what you are going to do and when and record this
- Remember, never to make promises you are not able to keep

- Take the necessary action.
- Follow up to check if the complaint has been addressed either directly with the client or with the person authorised to handle the complaint.

Ensure adherence to relevant industry code of practice that outlines the minimum standard of professional conduct

Each Professional body has its own code of professional conduct, all are generally very similar. Please see Australian Association of Massage Therapists (AAMT) code below..

AAMT Code of Ethics

Preamble

This Code of Ethics is a statement about appropriate and expected conduct of AAMT members and as such reflects the *values* of the Association. This Code describes the professional conduct expected of members to preserve and enhance their professional reputation as well as the general reputation of the massage industry in Australia. Further the Code of Ethics seeks to protect the general public. The Code has been developed to inform and guide the decisions and behaviour of all therapists and others involved in the provision of massage and related services under the provisions of the Association. This Code of Ethics applies to all members of the Australian Association of Massage Therapists Ltd.

This Code of Ethics is not intended to, and could not possibly provide easy answers, formulae, or prescriptive solutions for the complex professional dilemmas massage therapists face in their work. It does provide a basis for critical reflection. It also provides some assistance with the resolution of moral and ethical dilemmas. The Board of Directors of AAMT reserves the right to amend the Code of Ethics, as and when it is deemed necessary.

Adherence to this Code involves a commitment to 5 principles

- The primary factor in all treatment decisions is the client/patient's well-being.
- Maintain Client/Patient/Therapist confidentiality
- Treat the client/patient according to competent application of accepted techniques and principles.
- Maintain a commitment to the development of the industry/profession
- Maintain a supportive professional attitude to our colleagues and the industry

1. Statements to the 5 principles

- Client/patient well-being is the priority in any treatment decisions. Treatment decisions should be consensual between the therapist and client and the therapist should provide explanation to the client/patient in any changes of methods of treatment used.
- Confidentiality is to be maintained between client/patient and therapist. Clinical information shall be stored in a confidential manner and communication, unless otherwise specified, between therapist and client shall remain confidential.
- Members will conduct their practice in an accepted professional manner as set out in the Standards of Practice.
- Members will not wilfully misrepresent their qualifications, training or experience.
- Members are required to uphold the rules, regulations and values of the AAMT. If a member has breached these rules and regulations, they may be brought before an ethics committee and/or may have their membership revoked.

2 Propriety

2.1 Confidentiality of client information must be observed. Consent must precede information disclosure.

2.2 Members will honour the clients' right to personal privacy and modesty.

2.3 Members will maintain professional ethical standards and comply with generally accepted standards of professional behaviour.

3. Competence

3.1 Members will demonstrate competent therapeutic decision making and treatments and will not misrepresent their qualifications, training or experience.

3.2 Members will work within the scope of their professional role and avoid misrepresentation of their range of competence and skill.

3.3 No member shall perform any work or action that contravenes any Australian Federal or State Legislation pertinent to their scope of practice.

4. Responsibility

4.1 Members are personally responsible for their professional decisions.

4.2 Members must give due consideration to the foreseeable consequences of their actions.

4.3 Members should have a working knowledge of and practice within the relevant principles of laws and policies that relate to their work.

4.4 Support the development and implementation of laws and policies that promote the practice of massage.

4.5 When working with or for other persons or organisations, members shall maintain the highest integrity and standard of the profession.

5. Therapist – Relationship

5.1 Australian Association of Massage Therapists' members are required to keep a history.

5.2 Clinical, consulting and evaluative information must be kept confidential and communicated only for professional purposes to persons legitimately involved in the client/patient's case.

5.3 Records must be stored and, where necessary, disposed of in a confidential manner and kept/archived in accordance with federal and state/territory legislation.

5.4 Where clients/patients are unable to give informed consent, due to age, psychological state, medical condition etc. consent must be obtained from the legal guardian.

5.5 When treating minors (under 16 years of age) they must be accompanied for treatment by a parent/guardian or have written permission for such treatment.

5.6 A member shall not engage in, nor propose a sexual contact with a client.

5.7 If a member and consenting client wish to conduct an intimate relationship, that client should be referred to another member for treatment.

5.8 Advance financial arrangements should be made and be understood by clients to safeguard their interests

5.9 Unless a client/patient chooses to consult a member privately, a member shall not receive private remuneration for professional services to persons who are entitled to the member's services through an institution or agency.

5.10 Members may not receive remunerations for referring client(s) to other professionals for services.

6 Professional Conduct

6.1 Members will adhere to the Constitution, Code of Ethics and Standards of Practice of the Australian Association of Massage Therapists

6.2 Members will not publicly criticise other members' in a manner that casts doubt on their professionalism and competence.

6.3 Members shall co-operate in any inquiry instituted by the AAMT over Code of Ethics breaches or any other issue.

7 Professional Development

7.1 Members must undertake continued Professional Massage Education on a regular basis. Required points are set by Board of Directors.

7.2 Members must maintain Public Liability and Indemnity Insurance

7.3 Members must maintain currency at an appropriate level of First Aid Certificate and CPR as determined by the Board of Directors

8 Employer/Employee Relationships

8.1 All Australian Association of Massage Therapists will ensure that any person in their employ:
Is adequately and appropriately trained/qualified to perform the work required of them

8.1.1 Is adequately covered by Professional Indemnity Insurance (either their own or in the provisions of the employer's insurance policy).

8.1.2 Is not subject to harassment by the employer, other employees or clients.

8.1.3 Is employed under such conditions as dictated by Australian Legislation.

8.1.4 Abides by the AAMT's Code of Ethics where the primary operator is a member of AAMT.

8.2 The employee will not attempt to solicit the custom of any client of the employer.

8.3 If a client expresses the wish to transfer custom from the employer's clinic to the private practice of the employee, the employee must observe transition of business principles when discussing such transfer with employer or previous employer.

9 Consulting Premises

Members of the Australian Association of Massage Therapists will ensure that professional premises:

9.1 Are maintained in a hygienic condition and professionally presented.

9.2 Should display member qualifications certificates, and the Australian Association of Massage Therapists Certificate adequately

9.3 Have their fee structure, cancellation policies/penalties and other relevant conditions clearly displayed.

9.4 Provide access to hygienically maintained toilet and bathroom facilities.

9.5 Provide consideration for the client/patients modesty, privacy and safety.

9.6 Provide for confidential storage of client and other private or sensitive information.

10 Advertising

10.1 When advertising or making public statements AAMT members must:

10.1.1 Not make statements on behalf of AAMT without the written permission of the National/Divisional Committee.

10.1.2 Register to use and comply with Association rules when using the Association's Logo.

10.2 AAMT members must ensure that public statements or advertisements do not contain:

10.2.1 False, misleading or fraudulent claims.

10.2.2 Claims which may bring the Association or the massage profession into disrepute.

10.2.3 Claims creating unrealistic expectation of results.

10.3 AAMT members must:

10.3.1 Not falsely imply sponsorship or verification by any organisation.

10.3.2 Ensure that advertisements or statements seeking research participants, clearly state the purpose and nature of the study and any costs and obligations accepted by the participants.

10.3.3 Ensure that advertising complies with Australian Laws relating to misleading or deceptive conduct and other unfair practices such as discrimination.

It is important to refer ethical issues or breaches of *ethical practice* to management or ethics committees in accordance with organisation policies and procedures

Organisational policies and practices

Legislation, common law, government regulations, local community and organisational circumstances will lead to the creation of policies, procedures and protocols which guide staff and others in how to conduct the organisation's business. The larger the organisation the more likely it is to have numerous policies and procedures. Small businesses and not-for-profits tend to have far fewer.

Monitoring of ethical work practice and legal compliance may involve:

- Audits
- Inspections and reviews
- Quality Assurance activities

Exercise duty of care in all aspects of work to ensure client safety

Handle client complaints sensitively and in line with organisation policies and procedures

Perform all work within the boundaries of responsibility and refer problems to supervisor and/or other appropriate health professional

Your roles and responsibilities should be detailed in a job description which will usually contain:

- An overview of the organisation, its purpose, structure and activities
- The place of the job in relation to other positions and roles in the organisation
- The key tasks required of the job
- The responsibilities and accountabilities
- The capabilities or skills and knowledge required of the person undertaking the job (sometimes divided into 'essential' and 'desirable')
- Terms of employment
- Your role and responsibilities will also be affected by the legislative framework of the organisation.
- We previously identified the following areas of legislation as most likely to be applicable to all not-for-profits:
 - State occupational health and safety laws and regulations
 - Laws and regulations on employment

- Human rights legislation
- The privacy acts of federal and state governments
- State laws on the legal entity of your organisation whether it is an incorporated association or a company limited by liability.

There will be other state and federal legislation that applies to your organisation relative to the nature of its programs and the sector it works in.

These too, will have an impact on your role.

Following and clarifying instructions

Part of most people's work will involve following instructions. The critical factors in being able to follow instructions accurately are:

- Concentrated listening
- Clarifying anything you do not understand
- Make sure you know the what, why, when, where, with whom and how of the instructions
- Asking to be shown what to do if you are unsure
- Asking someone to observe you and give you feedback on your performance in carrying out the instructions
- Making notes or drawing diagrams if it helps you remember
- Gather any additional information you may need to complete the task
- Making sure you understand the meaning of any technical terms
- If the instructions are written, reading through all the instructions before you start and seeking clarification on areas of uncertainty
- Seeking assistance if you encounter any difficulties
- Checking your job after it has been completed.
- It is also important to be sure that what you have been asked to do falls within your job role and responsibilities. If you have some concerns about this seek clarification from your supervisor or colleagues.

Clear instructions will usually:

- Explain the purpose of the task.
- Describe briefly what you are expected to achieve in completing the task.
- List equipment and/or facilities that you will need
- Break down the task into its component parts
- List each step to be taken in the correct order
- Use clear and simple diagrams or lists or demonstrate what is required.

Monitor work practices to ensure that they reflect principles of ethical practice

Working ethically

Values, beliefs and attitudes

We use the term 'values' to describe that which we 'hold dear' or regard as important. We have personal values and we can identify group, organisational or societal values. Differences in values occur between people and groups and can lead to conflict. Tolerance implies recognition of other people's rights to have different values (although that is a value in itself!).

Your values will influence the way you work as a volunteer. Indeed they have influenced your choice to work as a volunteer and the organisation you chose to work with.

It is useful to clarify your own values. Search the internet under 'values clarification' and you will find several web sites that have values clarification exercises that you can undertake. Identify your top ten values and then rank these.

'Beliefs' are what we hold to be true and often we can hold beliefs in the face of contradictory evidence (although this borders on 'faith').

An 'attitude' can be described as a predisposition towards a person, object or situation.

Values, beliefs and attitudes influence the way we respond to people and situations, what we choose to do and how we undertake action. When working in any organisation you are likely to encounter situations where you have to work with people whose values, beliefs and attitudes are different from yours.

What is meant by 'ethics'?

The term ethics is used to describe codes or standards of behaviour that are based on a shared understanding of what is right and wrong. They are derived from values and belief systems and can vary from one culture to another or from one group to another. In a society like Australia there is a tendency toward shared notions of what is ethical although there will also be differing views. Our shared ethics oblige us to refrain from violence against others or to lie, cheat or defraud others. Our ethics uphold the value of honesty. Ethics are often expressed as principles or codes of practice. They are underpinned by values.

Maintain appropriate documentation

When referral or request is received, ensure nature and requirements of referral and/or request are correctly identified

Complete documentation within clients' medical records in accordance with state/territory legislation, and organisation policies and procedures

Ensure reports and documentation address requirements of state/territory legislation, and organisation policies and procedures

Implement policies and procedures to safe guard client information from unauthorised access or disclosure

Maintain compliance with legal requirements

Ensure statutory obligations and requirements are fulfilled

Ensure consent of client is obtained for each test/procedure, as required

Consent of client may include:

- Written
- Verbal
- Implied

Informed consent is the process in which a fully informed client can make conscious decisions about their health care or massage therapy session. An informed consent statement does just what it says: informs clients to make them aware of your services so they can actively consent or participate in the service or not.

Writing a Statement of Informed Consent is crucial to the success of a massage practice.

Many massage therapists overlook this process.

An informed consent statement can include:

- list of services that you offer
- scope of practice
- a specific definition of what those services are
- your intentions for the massage
- your philosophy on healing, massage and health
- treatment plans and goals
- risks involved in treatment/session
- guidelines for receiving massage

After informing a client of your services and philosophy it is necessary to confirm that the client understands what you mean. Often, clients will just agree without hesitation because they don't want to make waves. You can specifically ask a client to tell you what they understand will be happening.

Being direct with a client sets up proper boundaries for creating a therapeutic relationship. When a client is informed, they have the opportunity to be more engaged in the process of massage and healing.

Workcover requirements

In order to comply with work cover requirements, so you can treat injuries claimed under workcover, you must follow guidelines. These guidelines can be found on the workcover website, updated regularly. The following is an example, found 23/06/2010 on South Australia workcover website:

Minimum criteria for approved remedial massage providers

All approved remedial massage providers must meet the following minimum standards:

- 2.1 Successful completion of a Diploma in Remedial Massage as recognised by a registered training organisation.
- 2.2 Professional indemnity and public liability insurance to the value of at least \$2 million per policy.
- 2.3 Current Senior First Aid Certificate or Level 2 certificate authorised by a recognised body, such as Red Cross or St John.
- 2.4 A current police clearance demonstrating no record such as being found guilty or convicted or fined for a criminal offence involving dishonesty or an offence punishable by imprisonment (in South Australia or elsewhere).
- 2.5 Disclosure to WorkCover of any breaches of ethical conduct or guidelines which resulted in him/her being censured or expelled from a relevant association.

Guidelines for approved remedial massage providers

The following guidelines relating to remedial massage must be met:

- 3.1 The remedial massage must not include thrust, manipulation or adjustment of joint structures.
- 3.2 The services provided by way of remedial massage must at least meet the standard of care generally adopted by the massage industry.
- 3.3 The remedial massage must be outcome focused and directly related to the compensable injury/condition and assist in the worker's physical and psychological recovery and restoration to the workforce and/or community.
- 3.4 Remedial massage services must only be provided pursuant to a referral by a medical expert, as defined in section 3 of the Act. A copy of the referral must be sent to the case manager for approval. Where a worker self-refers, the approved remedial massage provider must contact the relevant case manager for approval prior to service delivery.
- 3.5 A referral must be in writing and include:
 - how the service is intended to increase and maintain the worker's functional ability
 - the number of services to be provided (refer section 3.8)
 - how long the service should be provided
 - dates of review
 - specific body area to be treated (relevant to the compensable injury described on the WorkCover Medical Certificate, previously known as the Prescribed Medical Certificate).
- 3.6 An approved remedial massage provider does not have the authority to refer for remedial massage or any other service. For example, the approved remedial massage provider cannot refer the worker for exercise programs ie, hydrotherapy, gymnasium. The approved remedial massage provider should refer back to the treating medical expert for any other services required in the circumstances of the case. In addition, the approved remedial massage provider must not override or amend recommendations made by a medical expert.
- 3.7 If, in the opinion of the approved remedial massage provider, further remedial massage treatments are required, a progress report should be sent to the referring medical expert. If, in the opinion of the medical expert, further treatments are considered appropriate, the medical expert must complete a repeat referral and submit it to the case manager for approval.
- 3.8 The provision of treatment must be in accordance with the following best practice standards:

- A review should occur after each treatment.
- If at four treatments it is clear that remedial massage will be of no benefit to the worker, the approved remedial massage provider has an obligation to discontinue treatment and the worker should return to the referring medical expert.
- If improvement is occurring after four treatments, a course of up to 10 treatments may be beneficial where consistent improvement in functional ability has been demonstrated and maintained after the first four treatments.
- A subsequent course of treatment will require prior approval by the case manager on a case by case basis.

3.9 An approved remedial massage provider cannot advise on or supply the worker with therapeutic equipment, drugs, herbal lineaments, ointments, health products, vitamins or food supplements.

3.10 The approved remedial massage provider must:

- have an understanding of the principles of the *Workers Rehabilitation and Compensation Act 1986*
- participate in the Quality Review Program if so requested by WorkCover

3.11 WorkCover may terminate an approved remedial massage provider's registration at any time with 30 days notice. In some cases, a termination may take effect immediately. A termination may occur under the following circumstances:

- A breach of the minimum criteria or guidelines for approved remedial massage providers
- The approved remedial massage provider is found guilty or convicted or fined for a criminal offence involving dishonesty or an offence punishable by imprisonment (termination immediate)
- The approved remedial massage provider is censured or expelled from an association
- Failure to notify WorkCover of amendments to provider location or provider details
- Expiration of the minimum level of professional indemnity and public liability insurance, or Senior First Aid Certificate/Workplace Level 2 certificate

3.12 Following the occurrence of any of the circumstances detailed under 3.11, WorkCover may issue a warning, suspension or cancellation notice. Previous breaches by the approved remedial massage provider may be taken into account.

All notices regarding a warning, suspension or cancellation will be delivered by certified mail. Notices will be titled either:

- "WARNING NOTICE"
- "NOTICE OF SUSPENSION OF REGISTRATION"
- "NOTICE OF CANCELLATION OF REGISTRATION"

and will state the reasons for a warning, the period of suspension or state the effective date of cancellation of the remedial massage provider's registration.

WorkCover will allow the remedial massage provider to make representation on the notices, under the following timeframes:

- 30 days from the date of a warning notice
- 14 days from the date of a suspension notice, or
- 14 days from the date of a cancellation notice

Where WorkCover issues a suspension or cancellation notice, and:

- the 14 days allowed to make representation on the matter has elapsed; and
 - any representations made by the remedial therapist have not satisfied WorkCover that the cancellation is unwarranted;
- or
- the remedial massage provider has failed to make representations;

WorkCover will advise the remedial massage provider in writing that they are no longer recognised by WorkCover as an approved remedial massage provider, and that their provider number has been deactivated.

Fees and standards for approved remedial massage providers

4.1 Subject to section 32(4) and (5) of the Act a worker receiving remedial massage services which meets all the conditions detailed above shall be entitled to be compensated for the costs of that remedial massage to the extent that:

- it is a reasonable amount for the provision of the service, and
- it was reasonably incurred by the worker in consequence of having suffered a compensable disability/injury.

4.2 Invoices for services should be submitted to the case manager on a regular 30 day cycle (ie, end of the month). The account should be itemised and include:

- the business name ie, the person or business to be paid
- the ABN of the business name *
- the address of the business
- invoice number
- date of issue
- name of the approved remedial massage provider
- the approved remedial massage provider number
- the address of the provider if different from the business address

- worker's family name and given name
- worker's home address
- claim no (including suffix eg, 01, 02)
- pre-injury employer name
- service date
- service description (see below)
- item (service) code
- duration of service in minutes
- item cost (see below)
- GST included in the item cost (if applicable)
- total of the invoice (GST inclusive)
- total amount of GST charged and included in the total of the invoice.

* WorkCover will withhold 46.5% of the payment where the supplier is not able to provide an ABN and WorkCover has acquired goods or services in excess of \$75.00 (excluding GST) in accordance with PAYG legislation (effective 1 July 2007).

4.3 WorkCover's services and recommended fees (excluding GST) for remedial massage are as follows:

- Initial Consultation \$60.00
An initial assessment including examination and treatment
- Subsequent - Standard Consultation \$30.00
(less than or equal to 30 mins duration) A brief consultation involving examination, treatment and documentation with minimal contact time
- Subsequent - Extended Consultation \$45.00
(greater than 30 mins but not more than 45 mins duration) An extended consultation involving increased time on examination, treatment and documentation
- Subsequent - Long Consultation \$60.00
(greater than 45 mins duration) An extended consultation should only be utilised in a limited number of cases where the nature of injury is considered to be complex
- Standard Report \$60.00
A case manager may request a standard report in response to a series of specific questions. A report will be taken to be standard when re-examination of the worker is not required and the report is based on a transcription of existing records.

Note 1: 'Consultation' means actual contact time by a remedial massage provider with a patient.

Note 2: WorkCover may, as part of an audit program, initiate discussions with a remedial massage provider and/or patients in relation to the duration and content of a service.

Ensure authorities are notified of client information as required by law

Notification of authorities of client information must include:

- Certain infectious diseases
- Suspected or known child abuse
- If it is deemed to be in the public's best interest

You must break confidentiality in any situation that indicates a clear and imminent danger to someone's life, such as intended suicide, murder, personal endangerment, or abuse or neglect of a child, elderly person or mentally challenged individual.

It is your ethical responsibility to report these situations, but many states have established laws that require certain professionals to report suspected abuse as well.

Courts of law can subpoena any of your client's files. Names, contact numbers, health histories, treatment notes, and account balances are all subject to being surrendered by subpoena.

This situation does not occur frequently, but it can happen.

Records should always be accurate, organised, and thorough, and extraneous notes, and irrelevant notes such as on client's emotional state or comments on behaviour should never be kept in clients files.

Notifying appropriate government department regarding an infectious disease

Notifying cases of infectious diseases within Victoria - How to notify

Step 1 (Mandatory for Group A conditions / optional for Group B/C/D conditions)

Group A - Conditions require immediate notification to the Department of Health by telephone upon initial diagnosis (presumptive or confirmed) with written notification to follow within five days.

Group B - Conditions require written notification only within five days of diagnosis (presumptive or confirmed).

Group C - Conditions include the sexually transmissible diseases and should be notified using the same form. To preclude identification of the patient, only the first two letters of the given and family name of the patient are required.

Group D - Conditions include HIV infection (Human Immunodeficiency Virus) and AIDS (Acquired Immunodeficiency Syndrome) and written notification is required within five days of confirmation of diagnosis. A separate form is used for this purpose due to the need to have national uniformity in collection of data.

- **Telephone our priority number 1300 651 160**

This number connects you directly to the Department of Health's Communicable Disease Prevention and Control Unit for the cost of a local call from most fixed phones (additional charges may apply for calls made from mobile phones).

For urgent notifications outside office hours, please telephone the departments after hours service on 1300 790733 and advise the operator that you wish to make an 'urgent infectious disease notification'.

Step 2 (Mandatory for all conditions)

- **Notify online using secure e-Form** (note - the online service is not available for Group D conditions) OR
- **Print > Complete > Fax/Post the relevant Notifiable Conditions Form**

Fax the completed form to our priority number 1300 651 170, which connects you directly through to the Communicable Disease Prevention and Control Unit for the cost of a local call from most fixed phones (additional charges may apply for calls made from mobile phones) or post it (no stamp required) to:

Communicable Disease Prevention and Control (Public Health Branch)
Victorian Government Department of Health
Reply Paid 65937
Melbourne VIC 8060

What happens with the notification?

The Department conducts surveillance on infectious diseases to pinpoint outbreaks, to prevent the spread of infection to prevent further spread of infection and prevent further exposure. For certain conditions Medical Officers, Environmental Health Officers, or Public Health Nurses conduct further investigations. This involves contacting the patient to obtain more detailed information.

Note - Department staff will not contact the patient without seeking the consent of the notifying doctor.

The Department routinely publishes annual and quarterly and daily surveillance reports online and in hard copy.

Diseases

This section of the site provides information about:

- **Blood borne**

Diseases are those in which an infectious agent present in the blood of an infected individual is transmitted by contact with the blood of a susceptible individual.

- **Enteric (gastro)**
Most commonly caused by an infectious agent entering the body through the mouth and intestinal tract. They are usually spread through contaminated food or water, or by contact with vomit or faeces.
- **Sexually transmissible (STI)**
Diseases in which an infectious agent is transmitted from an infected individual to a susceptible individual through body fluids during sexual contact; including vaginal intercourse, oral sex, and anal sex.
- **Vaccine preventable**
Diseases that can be prevented by vaccines included in the National Immunisation Program Schedule. Non-scheduled diseases that are also vaccine preventable (including cholera, hepatitis A, meningococcal disease, plague, rabies, bat lyssavirus, Japanese encephalitis, Q fever, tuberculosis, typhoid, varicella-zoster infections (chickenpox and shingles) and yellow fever) are not included in this group.
- **Vector borne**
Those in which the infectious agent is transmitted from an infected individual to a susceptible individual by an insect or other living character, such as by the bite of a blood-feeding vector or by other inoculation.
- **Zoonoses**
Zoonotic diseases or zoonoses are those that can be transmitted under natural conditions from vertebrate animals to humans.
- **Other**
Includes Creutzfeldt-Jakob disease (CJD), invasive meningococcal disease, legionellosis, leprosy (Hansen's disease), Mycobacterium infection, severe acute respiratory syndrome (SARS), smallpox, tuberculosis and viral haemorrhagic fevers.

Infectious diseases still occur frequently throughout the world, and constant vigilance is required to prevent the reappearance of diseases thought to have been conquered. Changes in lifestyle have also led to the emergence of new threats to public health from infection. Health authorities depend on medical practitioners and laboratories for information on the incidence of infectious diseases. Notification is vital in efforts to prevent or control the spread of infection.

Ensure release of information contained within client records is completed in accordance with relevant federal, state/territory legislation and organisation policies and procedures

Ensure duty of care is met in all aspects of own work role

Ensure clients are provided with access to information about themselves in accordance with legislation or other statutory provisions

Ensure the right of every client to be treated fairly and equitably is recognised

Monitor compliance with legal obligations and requirements

Legal obligations and requirements may relate to:

- Privacy
- Anti-Discrimination
- Consent to medical treatment
- Duty of care
- Release of client information, including medical and other clinical records
- Coroners Act
- Child protection
- Industrial relations
- Trade practices
- Poisons legislation
- Retention of human tissue
- Equal Employment Opportunity
- Occupational health and safety
- Infection control
- Contractual obligations
- Licensing laws