



GETTING YOUR ACT TOGETHER

AN OVERVIEW OF NEW ZEALAND LEGISLATION RELEVANT TO MASSAGE THERAPY (MT)

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While we devote the majority of time to seeing clients and attending to the routine side of running a business, there are a number of important pieces of legislation that massage therapists need to be aware of and comply with in order to meet government requirements. Often, businesses don't think about legislation until something goes wrong or a client makes a complaint. So it's good to stay up to date and make sure your business still complies, in case changes have been made that impact on your business and practice.

A few Acts and codes that massage therapists need to be aware of are the Consumer Guarantees Act (CGA), Fair Trading Act, Code of Health & Disability Consumer Rights, Privacy Act and the Health Information Privacy Code.

CONSUMER GUARANTEES ACT (1993)

The CGA requires businesses meet some specific guarantees for quality when selling goods and services to consumers. MT is covered as it is a service provided by a professional person and for those therapists who also sell products such as massage balls, beauty products or heat packs, particular parts of this Act also applies to you.

For services, there are four guarantees that massage therapists need to meet. Massage sessions must be carried out with reasonable care and skill so that clinical practice is at least as good as a competent person with average skill and experience in MT. Work carried out must be fit for any particular purpose. This means that if you can't guarantee that you can give them the massage or the result they want, you need to tell them before starting the session. So, if a client says they want a deep tissue massage on their legs and you find out they are contraindicated for this type of work, you must tell them what you can and cannot do and why, before beginning. If the

client demands deep tissue work to the area regardless, you do not have to agree to do it if they are not willing to accept your advice.

Services must be completed within a reasonable time, so this means that if a client books for a 30 minute massage and you go over by 30 minutes, you can't expect to charge the client for a one hour massage, unless you have renegotiated during the session and the client agreed. Finally, services must be charged at a reasonable price, when the price hasn't been set. So, if a client books for a 60 minute massage and then asks for another hour during the session and you don't have a set price for two hours, then they only have to pay what is reasonable, based on what other massage therapists may charge for this. It's very wise to always clearly advertise your prices and keep them up to date on any printed material you have as well as on your website and any other places you may list your pricing on.

Goods also have set guarantees. These are around quality, fitness for purpose, matching their description and any sample or demonstration model shown, as well as being able to be legally sold, being of a reasonable price if the price isn't set and arriving in acceptable condition and on time. If you are a therapist who sells products as part of your income generation, then it is important to be familiar with these guarantees you must meet.

FAIR TRADING ACT (1986)

The Fair Trading Act is about making it illegal for businesses to mislead consumers, provide them with false information or use unfair trading practices. The Act applies to anyone who is 'in trade' and covers both advertising and selling of goods and services by businesses, so this includes sole traders working from home as well as partnerships and companies. For massage therapists this means that we need to ensure that we avoid doing things like saying we are trained to a particular level or in a particular technique when we aren't, charging prices that are

different than we advertise or offering free gifts or massages without any intention of giving them. It also includes making unsubstantiated claims about massage. So telling clients that massage will cure a particular condition or have a specific outcome where there is no evidence to support the claim is considered an unfair trading practice.

CODE OF HEALTH & DISABILITY CONSUMERS' RIGHTS (1996)

The Code of Health & Disability Consumers' Rights establishes rights of consumers and obligations and duties that providers must meet in order to comply with the Code. As providers of health services to the public, massage therapists are covered under the Code, whether you charge for your services or not.

The rights that consumers have are:

Right 1: the right to be treated with respect

Right 2: the right to freedom from discrimination, coercion, harassment, and exploitation

Right 3: the right to dignity and independence

Right 4: the right to services of an appropriate standard

Right 5: the right to effective communication

Right 6: the right to be fully informed

Right 7: the right to make an informed choice and give informed consent

Right 8: the right to support

Right 9: rights in respect of teaching or research

Right 10: the right to complain

Massage therapists need to make sure that clients are informed about their rights. Displaying a poster of the Code in your premises is a simple way of doing this. These can be downloaded from the Health & Disability Commissioner (HDC) website for free. Providing a link to the HDC website on your own website and in any printed



material you provide clients with are other ways of informing clients. In addition, you must also enable clients to exercise their rights. Having a complaints process in place and making that known to clients helps clients to resolve issues.

PRIVACY ACT (1993)

The Privacy Act controls how agencies collect, use, disclose, store and give access to personal information – this is information about identifiable, living people. The term ‘agency’ applies to any person or organisation that holds personal information. There are twelve privacy principles which cover a number of areas.

Any massage therapy business, no matter the size, must have a privacy officer. If you are a sole trader, you are your own privacy officer. If you work for a business or have shared records, make sure someone has that role and that you know who it is. The Privacy Commissioner can provide training on the Act if needed.

The Health Information Privacy Code (1994) is a code of practice that comes under the Act. It takes the place of the information privacy principles for the health sector and applies to all agencies that provide personal or public health or disability services. It covers health information collected, used, held and disclosed by health agencies. In essence, the principles can be nicely summarised as:

1. Only collect personal information you need
2. Get it straight from the person concerned where possible
3. Tell clients what you’re going to do with it
4. Collect it legally and fairly
5. Take care of it by keeping records stored securely, whether locked in a cabinet or password protected and with good computer security if you use electronic records
6. Let clients see their personal information if they ask to
7. Let clients correct their information if it’s wrong
8. Make sure personal information is correct before you use it
9. Don’t keep information longer than you need it
10. Only use it for the purpose you got it

11. Only disclose information if you have a good reason to do so
12. Only assign unique identifiers where permitted.

Three other Acts worth mentioning are:

HEALTH PRACTITIONERS COMPETENCY ASSURANCE ACT (HPCAA)

The Health Practitioners Competency Assurance Act came into effect in 2003. It’s main purpose is to protect the health and safety of the public by making sure health practitioners are competent and fit to practice in their given profession. It does this by setting out a framework for regulation of health practitioners, where there is a risk of harm to the public from professional practice. A broad range of health professions are regulated under the HPCAA – from doctors, nurses and midwives to occupational therapy, psychology, physiotherapy, chiropractic and osteopathy. However, not all health professions in New Zealand are covered under this Act and Massage Therapy is one of these is because it is not seen as a form of treatment that poses sufficient risk to the public. Traditional Chinese Medicine is currently being considered for regulation, so this may make way for Massage Therapy to be considered in the future, if sufficient evidence can be provided showing that it can cause serious harm. While massage therapists don’t have statutory regulation, as a voluntary membership organisation, Massage New Zealand provides a system of self-regulation for the profession. It does this by ensuring high standards of massage training and practice, setting out a scope of practice, requiring that members maintain a current annual practicing certificate and providing protection for the public.

HEALTH & SAFETY IN EMPLOYMENT (HSE) ACT

The HSE Act is about making work activities safe and healthy for workers, customers and visitors to the premises. This means having a safe workplace, with good hazard management and reporting systems and processes. It applies to MT employers, employees, contractors and self-employed massage therapists. Make sure you are aware of any real or potential

hazards in your premises such as power cords that people could trip over, steps that are slippery or furniture that could fall in an earthquake. Put up signs to inform people about hazards and make sure to address them so that any harm is reduced or removed. Businesses are required to keep a hazard register and have reporting procedures in place. It’s often good to do an objective walk-around your premises every few months to see what hazards you can identify, noting them down and deciding how and when you will address them.

HUMAN RIGHTS ACT

The Human Rights Act (1993) protects people in New Zealand from discrimination on certain personal characteristics in a number of areas of public life including gender, race, religion, disability, age, sexual orientation, employment and the provision of goods and services. It also prohibits sexual and racial harassment. For massage therapists, this means it isn’t lawful to refuse treating a client because they are different in some way or have views that might be different to yours, for example, refusing to treat a muslim woman because of her religion, or refusing to treat a pregnant woman because she is pregnant. It is also important to follow good practice with draping and in your professional boundaries so that nothing can be misconstrued.

Finally, at a local government level, councils often have by-laws that relate to businesses. These can apply to things such as whether you can put signage out on the pavement in front of your premises and how big signage can be. If you run your business from home, some councils have specific criteria that you have to abide by. For example, what proportion of your house you can use for your business, how many people can work from it and whether you can sell goods from your home-based business. It pays to contact your local council to find out what requirements might affect your business.

For more information on the Acts and codes, go to:

<https://www.consumerprotection.govt.nz>

<https://www.employment.govt.nz>

<http://www.hdc.org.nz>

<https://www.hrc.co.nz>

<http://www.legislation.govt.nz>

<https://www.privacy.org.nz>