



Factsheet: Before you post...are you in breach? Your advertising obligations and requirements as a medical practitioner

As medical professionals, and ACD members, advertising is a useful tool to inform patients about medical services to support informed decision making. It is therefore critical that you ensure advertising of services meets regulatory standards. It is also your responsibility to know the facts and the requirements under regulatory standards.

ACD's role is to provide you with guidance on expectations around professional conduct. You are expected to understand your obligations and to maintain a high standard, in accordance with ACD's [Professional Code of Ethics](#).

This factsheet provides examples of the type of advertising you may have considered, including on social media platforms, and how to ensure you are compliant. This is by no means comprehensive. Always check before you post.

What is advertising?

Advertising, in the context of your obligations and requirements as a medical practitioner, encompasses all forms of traditional and non-traditional platforms of advertising (e.g. print, electronic media, social media etc.). It includes statements, pictorial representations or designs where the intention is to promote the use or supply of medical or health related goods. For medical practitioners this applies to advertising therapeutic goods and regulated health services. Regardless of the modality, the applicability of the regulatory standards are the same.

What your advertising must not be...

If you are advertising a regulated health service, your advertising must not:

- Be false, misleading or deceptive, or likely to be misleading or deceptive
- Offer a gift, discount or other inducement, unless the terms and conditions of the offer are also stated
- Use testimonials, or purported testimonials about the service or business
- Create an unreasonable expectation of beneficial treatments, or
- Directly or indirectly encourage the indiscriminate or unnecessary use of regulated health services¹.

Before you post...consider the following examples

Promoting products and making recommendations

It is an offense to advertise to the public about therapeutic goods that contains a statement referring to goods, or substances or preparations containing goods,

¹ As per Section 133 *Health Practitioner Regulation National Law*



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included in Schedules 3 (pharmacist only medicine), 4 (prescription only medicine), or 8 (controlled drug)².

For example, if you advertise cosmetic injections you cannot make any reference in your advertisement to individual Schedule 4 substances or ingredients, and therapeutic goods containing Schedule 4 substances or ingredients (most injections for cosmetic use). This includes abbreviations of either the ingredient or trade names³.

The Therapeutic Goods Administration (TGA) recommends the following acceptable terms and phrases in advertising, using cosmetic injections as an example:

- Cosmetic injections (anti-wrinkle injections, dermal fillers and submental fat)
- Anti-wrinkle injections/ treatments (anti-wrinkle injections and dermal fillers)
- Injections/ treatments for fine lines/ folds/ age lines (anti-wrinkle injections and dermal fillers)
- Injections to improve the appearance of chin/ neck/ jaw line (dermal fillers)⁴

Further information is available via the TGA website, including mandatory information required in advertising for therapeutic goods. Using your social media platform to promote products and make recommendations is acceptable. However you must ensure such advertising does not breach the abovementioned TGA recommendations and all conflicts of interest are declared.

Advertising medical devices

Promoting the types of medical devices you use in your practice must be done within the requirements under the *Therapeutic Goods Act 1989* (the Act) and the *Therapeutic Goods Advertising Code 2015* (the Code). The TGA recommends the following be considered before you advertise (such as posting on social media):

- Check the medical device is included in the Australian Register of Therapeutic Goods (ARTG)
- Confirm the ARTG entry for the medical device, including the Intended Purpose and the manufacturer identified on the ARTG entry
- Ensure all advertising is consistent with the Intended Purpose set out on the ARTG entry, the manufacturer's instructions for use and the product label;

² TGA 2018. Australian Regulatory Guidelines for Advertising Therapeutic Goods (ARGATG). Guidance for advertisers: Advertising therapeutic goods with related services. 8 November 2018. Accessed 26 August 2019 via <https://www.tga.gov.au/book-page/advertising-therapeutic-goods-related-services#compounded>

³ Ibid 2

⁴ Ibid 2



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- Ensure all advertising complies with the requirements under the Act, the Regulations and the Code, including having data to substantiate the advertising claims made⁵.

Before and after photos

Before and after photos should be used with caution. There is a significant potential for this type of information to be misleading or deceptive, and to inappropriately convey to the public high expectations of a successful outcome and to encourage unnecessary use of health services. Patient informed consent must be granted before using such photos on social media and other advertising platforms.

Tips to ensure before and after photos are less likely to be misleading:

- The images are as similar as possible in content, camera angle, background, framing and exposure
- There is consistency in posture, clothing and make-up
- There is consistency in lighting and contrast
- There is an explanation if photographs have been altered in any way, and
- The referenced procedure is the only visible change that has occurred for the person being photographed⁶

AHPRA recommends the use of warning statements for surgical or invasive procedures. The advertisement should include a clearly visible warning, with text along the following lines:

"Any surgical or invasive procedure carries risks. Before proceeding, you should seek a second opinion from an appropriately qualified health practitioner"

Text should not be smaller than the main text or placed in an obscure position⁷.

Testimonials: patients or clients posting comments on your social media page and/or posts

You cannot use testimonials in your social media to advertise regulated health services you provide. Testimonials must be removed from your advertisement.

When a patient or client comments or posts about your practice or service on a website or in their social media, you should refrain from sharing or re-tweeting or re-posting such comments. This may be construed as advertising. Should a patient or

⁵ TGA 2015. Advertising health services with medical devices: information for health professionals and health practitioners. 22 December 2015. Accessed on 26 August 2019 via <https://www.tga.gov.au/advertising-health-services-medical-devices>

⁶ AHPRA 2014. For advertisers including registered health practitioners: Guidelines for Advertising Regulated Health Services. May 2014. Refer to Appendix 6 for further details.

⁷ Ibid 6



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client comment on your post or website and the comment is about your clinical services this should be removed, as it may be considered advertising.

Using words such as 'cure', 'can help/ improve/ treat' or 'effectively treats', 'safe', and/or 'effective'

These words could be considered misleading if the health service or product advertised is not based on acceptable evidence. If there is acceptable evidence supporting such claims for a health service then it may be acceptable to use these words⁸. Check before you post.

Using the specialist dermatology title

Specialist dermatologist is a protected title under the National Law. You should be mindful of the use of this title with descriptors. Some titles can help consumers find a practitioner who focuses on a specific area of practice. However, descriptors should not imply a speciality or endorsement that is misleading or leads consumers to believe the dermatologist holds specialist registration or an endorsement they do not hold⁹.

Regulatory standards

- [Health Practitioner Regulation National Law](#)
- Medical Board of Australia's [Guidelines for Advertising of Regulated Health Services](#)
- Medical Board of Australia's [Good medical practice: a code of conduct for doctors in Australia](#)
- Therapeutic Goods Administration's [Therapeutic Goods Advertising Code \(No.2\) 2018](#)
- [Competition and Consumer Act 2010](#) administered by the Australian Competition and Consumer Commission

Additional reading to better inform your advertisement and approach:

- Australian Regulatory Guidelines for Advertising Therapeutic Goods [Activities that represent advertising](#)
- [Further information on advertising and the National Law](#)
- ACD Social media – Member Policy; Managerial Policy

⁸ AHPRA 2019. What health practitioners and healthcare providers need to know about advertising. Accessed on 26 August 2019 via <https://www.ahpra.gov.au/Publications/Advertising-resources/What-health-practitioners-and-healthcare-providers-need-to-know.aspx>

⁹ AHPRA 2019. Titles – getting it right when advertising your health service. Accessed 23 August 2019 via <https://www.ahpra.gov.au/Publications/Advertising-resources/Check-and-correct/Titles.aspx>



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- Before you post, the ACD recommends you use AHPRA's [Check → Correct → Comply: Check and correct your advertising](#). See Appendix A for examples.
- TGA [decision tree](#), advertising for therapeutic goods

Disclaimer

This factsheet has been prepared by referring to existing policies, legislation, guidelines and codes. It was developed in response to concerns about how to ensure compliance with AHPRA guidelines and TGA guidelines with respect to advertising. This factsheet does not constitute legal advice nor does it override any existing policies, guidelines and codes of the ACD.

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