

Avant factsheet:

Advertising guidelines when promoting your practice

YOUR
ADVERTISING
HERE

Quick guide

- Avoid language or images that may mislead patients or cause an unreasonable expectation of beneficial treatment
- Advertising should not encourage patients to use a health service that is not clinically indicated
- Do not use testimonials or repost positive comments from social media platforms
- Any offers must clearly state the relevant terms and conditions

Using advertising

Advertising is a useful way to reach patients, so they can make an informed decision and understand how to access health care when they need it. It also promotes you or your practice as a preferred provider.

All businesses, including doctors and medical practices, have obligations to ensure their advertising is not misleading, as this can cause harm to the public. Understanding your responsibilities can help you to effectively communicate your services while fulfilling your legal and ethical obligations.

What is advertising?

Advertisements can be included on social media, websites, mobile communications, office signs, and magazine and newspaper articles. It can also include television advertisements or occasions when a practitioner appears on television or radio to provide information, for example, in a health report.

The aim of regulating the advertising of healthcare services is to protect the public from false or misleading claims and to help people make informed decisions about their health care. Regulations are also aimed at communications that might offer inducements or encourage indiscriminate or unnecessary use of health services.

Breaches of the law attract penalties. Ahpra's guidelines and advertising resources explain the prohibitions in more detail and provide examples.

Areas to watch in particular are websites featuring patient testimonials; before and after photographs; and discounts, prizes and similar incentives.

Websites are often developed by people outside the medical profession who may not be aware of the relevant law so ensure you check all content, including images, on your website.

Use of factual information

You can use your own factual information in advertising material. This includes your name, your contact details, your qualifications, speciality training and areas of experience.

You cannot imply that you are the best person in your speciality or the best person for a particular procedure, and you should avoid all comparisons between yourself and other healthcare providers.

Be careful about what you can claim as a statement of fact, particularly in terms of the benefits of a treatment.

Clinically indicated

Caution is needed to ensure the procedure you are advertising is clinically relevant and necessary for the patient and that the business model or sales pitch does not lose sight of patients' best interests. It can be difficult to determine what procedures are necessary. You should be particularly mindful of this when advertising cosmetic procedures.

Use of titles

Non-medical doctors (those with a PhD) should list their area of expertise and make it clear their qualification is not a medical degree.

For medical doctors, there may be concerns about the use of 'protected' titles and endorsements or claiming expertise. For example, unless you have completed suitable specialist training recognised by Ahpra and the Medical Board of Australia (MBA) you should not use the term 'specialist' or any similar words as this could mislead the public into thinking you hold the same level of expertise and training as a practitioner with Ahpra and MBA-recognised specialist training.

Testimonials

It is unlawful to use testimonials about clinical aspects of your care in your advertising. This includes testimonials that comment on symptoms, the reasons treatment was sought, the intervention provided, the outcome or your skills or experience.

Reviews, testimonials or feedback that do not include reference to clinical aspects of care are allowed, for example, comments such as "convenient location" or "friendly staff".

You are able to use an award symbol or rating from a third-party review site in your own advertising, as long as you do not also publish the testimonials on which the award or rating is based.

Editing a testimonial in any way is not advised. This can happen, for example, in an attempt by a practice to remove the clinical aspects of a review leaving just non-clinical content. Only unedited, non-clinical testimonials are acceptable. Given the pitfalls of editing, we recommend avoiding all testimonials as the safest approach.

Increasingly medical practitioners are using social media platforms to increase their profile and services. This should be done cautiously. You should not repost any compliments about you by patients that appear on the social media platforms of other individuals or entities as these will likely be testimonials. You should not encourage patients to post positive comments about you on any sites.

While you are not required to remove positive comments from platforms outside your control (such as doctor rating sites), you are responsible for ensuring the content of testimonials on sites you control does not breach the National Law.

Photographs and images

Take care with images used in your advertising. Several issues arise with the use of images, particularly 'before and after' photographs. These may be misleading and could be seen to induce an unreasonable expectation of benefit. Images must be of a real patient who has undergone the advertised procedure in your practice. Patients may consent to the use of images, but consent must be informed, in writing and free from any inducement.

Stock images are acceptable in your advertising provided they are not used to infer a false claim or mislead.

Advertising of price information

This can be a difficult area, particularly for doctors performing procedures. Any information that is provided must be clear and not misleading. Providing price information about the cost of consultations and the relevant Medicare rebates must be straightforward while still indicating any variables that may apply given the needs of individual patients.

This publication is not comprehensive and does not constitute legal or medical advice. You should seek legal or other professional advice before relying on any content, and practice proper clinical decision making with regard to the individual circumstances. Persons implementing any recommendations contained in this publication must exercise their own independent skill or judgment or seek appropriate professional advice relevant to their own particular practice. Compliance with any recommendations will not in any way guarantee discharge of the duty of care owed to patients and others coming into contact with the health professional or practice. Avant is not responsible to you or anyone else for any loss suffered in connection with the use of this information. Information is only current at the date initially published. © Avant Mutual Group Limited 2020 MJN361 06/20 (0983)

Rewards and inducements

Inducements, including rewards such as gift vouchers or discounts for referrals, are problematic because they may encourage indiscriminate or unnecessary use of health services, which is prohibited.

Discounts are only permitted if the full cost of the treatment is advertised and the associated terms and conditions of the discount are clearly stated.

Offering payment plans to patients is not recommended for a variety of reasons. From the advertising perspective, highlighting a payment plan option may be seen as encouraging the indiscriminate use of health services.

Warning statements

Where surgical or invasive procedures are advertised directly to the public, a warning is required. This applies to those procedures that have significant risk, require admission to a day procedure centre or hospital, or are elective procedures requiring more than local anaesthetic or sedation. Ensure the warning is clearly visible and is along the lines suggested by Ahpra:

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

Other issues

As well as complying with the Ahpra guidelines there are some additional considerations. The Therapeutic Goods Administration (TGA) has specific requirements and any advertising that mentions a pharmaceutical product needs to comply with its regulations.

Specifically, TGA regulations prohibit advertising of any prescription-only drugs and some pharmacist-only medicines. This includes pictorial representations and photographs.

The Australian Competition and Consumer Commission (ACCC) is the national advertising regulator and medical advertising needs to meet its requirements with regards to consumer protection and rights.

We recommend you keep detailed records of your advertising and review your advertising regularly. You should rely on Ahpra resources. If you are unsure whether the guidelines apply in your circumstances, you can contact Avant for advice.

Additional resources

Ahpra '[Guidelines for advertising regulated health services](#)'

TGA '[Advertising: Advertising Code and guidance](#)'

For more information or immediate **medico-legal advice**, call us on **1800 128 268**