

# Advertising regulated health services

Exclusive Offer

100% safe

SATISFACTION

GUARANTEE

"I highly recommend this product!"  
- Dr Celebrity

Recommended by  
9/10  
health professionals

NO SIDE EFFECTS

FREE GIFT

WORKS EVERY TIME

While there are laws for advertising all businesses, there are additional requirements for health services regulated by the Australian Health Practitioner Regulation Agency (Ahpra). At first glance it may seem unfair to have different rules. After all, health professionals have business pressures too, just like everyone else. But health services are viewed differently by the community and patients place enormous trust in health professionals to always act in their best interests.

The *Health Practitioner Regulation National Law* sets advertising requirements for all regulated health services. Ahpra and all the National Boards jointly developed the *Guidelines for advertising a regulated health service* to explain the requirements. The revised advertising guidelines took effect on 14 December 2020. Please don't assume that compliance is optional because the term 'guidelines' is used, it isn't.

## Key messages for advertising regulated health services

1. The advertising requirements and obligations are set out in the National Law. Therefore breaching these requirements is a criminal offence for which there can be substantial repercussions. A court can impose a penalty of \$5000 for an individual and \$10,000 for a body corporate.
2. There are five specific advertising requirements for regulated health services.

Section 133 of the National Law states that a *person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that:*

- a) *is likely to be false, misleading or deceptive*

This can include lying but also creating a false impression, hiding important information or making inaccurate claims.

- b) *offers a gift, discount or other inducement to attract a person to use the service or the business, unless the advertisement also states the terms and conditions of the offer;*

Advertisements for gifts, prizes or free items must state the terms and conditions in a way which is clear and easy to understand and in no way misleading.

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- c) *uses testimonials or purported testimonials about the service or business*

A testimonial includes a recommendation or positive statement about the service, so practitioners can't display endorsements from patients about how pleased they were with the care provided

- d) *Creates an unreasonable expectation of beneficial treatment*

Claims of beneficial treatment may include unsubstantiated scientific claims or promises of being cured.

- e) *directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services*

Health treatment should always be in the patient's best interest and advertising shouldn't encourage patients to seek treatment they don't need or require.

3. Don't apply each of the requirements in isolation. Advertising must reflect the relationship between all five. For example,

When offering customers a discount or inducement, it's not enough to only satisfy requirement b) by including the terms and conditions of the offer. The advertising must also not:

- be false, misleading or deceptive
- create unreasonable expectation of beneficial treatment
- include testimonials
- encourage the indiscriminate or unnecessary use of health services etc.

4. The advertising requirements apply equally to all health professional types regulated by Ahpra.

5. Many health professionals primarily think about their website when thinking about their compliance. However, the advertising requirements apply to all forms of advertising. So as well as

websites this includes newspaper, radio and television advertisements, brochures and social media.

6. The National Law prohibits health practitioners from using the term 'specialist' in advertising, unless they hold specialist registration with their national board. This also extends to using terms such as 'specialising' or 'specialises'. The reason for this is it could be seen as misleading as patients may assume a practitioner is a registered specialist when they aren't.

7. Ahpra provides guidance on the use of some words which aren't prohibited, yet if not used carefully could have the potential to be misleading or deceptive. These words are:

**Cure** – it's not always possible to establish a causal connection between treatment and patient improvement and responses to treatment vary from individual to individual.

**Safe** – it's important to acknowledge that all forms of treatment, even if generally considered safe, have the potential to cause adverse reactions.

**Effective** – the effectiveness of treatment can't be guaranteed in all cases.

8. Practitioners are responsible for all advertising that's considered to be within their control. Therefore, if a patient posts a testimonial on a practitioner's social media page, this page is within their control and

they're expected to remove that testimonial. However, if a testimonial is posted on a public review site which practitioners have no control over, it's acknowledged that they don't have the ability to remove this and therefore won't be considered to be breaching the advertising requirements. However, practitioners must be sure that if they find testimonials about them on sites they can't control, they don't share or 'like' them.

9. Advertising which is outsourced to any sort of advertising business must still adhere to the requirements. And the onus for complying rests with the registered health professional, not the advertising business. So, if using an external business to assist with advertising, be sure the business is made aware of the requirements and that the final product is approved by the practitioner it relates to before it's distributed.
10. Ahpra has continually updated and added to their online resources to assist health professionals understand and adhere to the advertising requirements. It's important to remember that meeting these advertising requirements is a professional requirement and the law. All Ahpra regulated professionals are expected to understand their requirements and should make use of these online resources to assist with this.



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