

## Position statement

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20 July 2017

### Statement on Chinese medicine practitioners making therapeutic claims in advertising

Recent complaints about advertising by registered Chinese medicine practitioners have identified a significant number of practitioner websites which are now being assessed to check their compliance with National Law<sup>1</sup> advertising requirements.

In order to provide further clarity to Chinese medicine practitioners, the Board has developed this position statement about a practitioner's obligations when advertising their services to the public.

#### Advertising regulated health services

Advertisers must ensure that any statements and claims made about Chinese medicine practice are not false, misleading or deceptive or create an unreasonable expectation of benefits from such services.

The National Law's advertising requirements apply to any forms of advertising of regulated health services to the public, including electronically on a website, radio or social media, or in printed media through a local newspaper or waiting room material such as pamphlets.

Practitioners should make sure they understand all the [advertising requirements](#) which also include a prohibition on using testimonials about clinical care and restrictions on the use of the word 'specialist' in advertising.

[Advertising](#) is used by a person or business to draw attention to their services and is provided outside the context of a professional patient consultation.

To ensure responsible advertising and to keep the public safe from false and misleading claims, all National Boards under the National Registration and Accreditation Scheme (the National Scheme) have agreed that a higher standard of evidence is required to support any therapeutic claims (clinical indications) made in advertising regulated health services, including Chinese medicine.

This is because in advertising, as opposed to a professional patient consultation, a written or broadcast statement is normally limited in details and may be easily misinterpreted or taken out of context, and therefore become misleading.

If advertising includes therapeutic claims about the treatment of health conditions, the advertiser must be able to substantiate each claim with acceptable evidence to support such claims. National Boards published further information about what is [acceptable evidence](#) to support therapeutic claims in October 2016.

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<sup>1</sup> The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law)

Because of the higher standard of evidence required for public advertising, acceptable evidence to support advertising claims needs to be based on findings obtained from quantitative methodology such as systematic reviews of randomised and high quality controlled trials.

While traditional use evidence forms part of the clinical evidence for Chinese medicine practice, it is not of the high standards required for public advertising. Therefore, this form of evidence used alone is not sufficient to ensure the accuracy needed for public advertising where the information is provided without any involvement of the expertise of the practitioner (such as in a clinical consultation).

The Board's advice is that registered Chinese medicine practitioners should not include any therapeutic claims about the treatment of health conditions in their advertising that cannot be substantiated with acceptable and up-to-date evidence, in order to avoid intentionally or inadvertently breaching the National Law. If a practitioner decides to do so it is entirely the registered practitioner's responsibility to provide acceptable evidence as expected by the public to justify the claims.

### **How complaints about advertising are managed**

Acceptable advertising is a professional obligation as well as a legal obligation. A breach of the advertising offence provision by a registered practitioner is also a breach of the Board's advertising guidelines and *Code of Conduct*. This means a practitioner's non-compliant conduct when advertising their services is grounds for disciplinary action in relation to their registration.

The [process for managing complaints](#) depends on the risk assessment of the advertising and whether there have been complaints about the practitioner's advertising before. In most cases, if a complaint is made about a practitioner's advertising and it is found to be non-compliant, the initial action taken will be for the Australian Health Practitioner Regulation Agency (AHPRA) to write to the practitioner asking them to [check and correct their advertising](#).

The practitioner will have an opportunity to correct their advertising, helped by the resources available in the *Advertising resources* section of the AHPRA website. More resources will be published on the website as they are developed.

#### *For more information*

- The AHPRA website [Advertising resources](#) section where you will find:
  - A summary of advertising obligations
  - The *Guidelines for advertising regulated health services* which apply to all registered health practitioners and anyone advertising a regulated health service
  - The process for managing complaints
  - Examples of advertising claims that don't meet legal requirements
- The [Code of conduct for Chinese medicine practitioners](#)
- For media enquiries, call (03) 8708 9200