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Australian Health Practitioner Regulation Agency

## Fact Sheet: Advertising

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January 2012

### Advertising a regulated health service

#### Introduction

Since the introduction of the National Accreditation and Registration Scheme (the National Scheme) on 1 July 2010, the advertising of regulated health services falls under the *Health Practitioner Regulation National Law Act*, as in force in each state and territory (the National Law). The National Scheme has public safety at its heart.

The regulation of Australia's registered health practitioners is the responsibility of the National Boards regulating Australia's health practitioners and the Australian Health Practitioner Regulation Agency (AHPRA). All registered health practitioners must comply with the National Law in order to practise.

For many professions and in many jurisdictions, both the legal framework and the standards expected by the National Boards are different to those previously in place. As a result, for the first year of the scheme the Boards' approach to advertising matters has been largely educational, by helping practitioners understand the law and the new requirements set down in each Board's standards.

The National Boards will now take a more structured approach to addressing concerns about advertising. This will include a series of warnings to the practitioner, initially reminding them of their obligations in relation to advertising, and ultimately possible prosecution for non-compliance with the Board's standards.

#### Advertising and the National Law

Section 133 of the National Law relates to advertising. It states that:

*(1) A person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that—*

- (a) is false, misleading or deceptive or is likely to be misleading or deceptive; or*
- (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; or*
- (c) uses testimonials or purported testimonials about the service or business; or*
- (d) creates an unreasonable expectation of beneficial treatment; or*
- (e) directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.*

All 10 National Boards regulating Australia's health practitioners have published *Guidelines for Advertising of Regulated Health Services*, which are published on their individual websites (accessible via

[www.ahpra.gov.au](http://www.ahpra.gov.au)). The guidelines are the best resources for understanding advertising and the National Law, and what is, and is not, permissible.

## Penalties

A registered health practitioner, or a business providing a regulated health service, whose advertising breaches the National Law, may be liable for a \$5,000 penalty (for an individual) or \$10,000 (for a body corporate).

The relevant National Board may also decide to manage a practitioner's persistent breach of the National Law through its conduct, health or performance pathways, which may include placing restrictions on an individual's registration and their ability to practise.

## How the Boards manage advertising breaches

The relevant Board will issue an escalating series of written warnings to practitioners, initially reminding them of their obligations in relation to advertising. If the practitioner fails to take corrective action, the Board may ultimately take legal action against them for non-compliance with the Board's standards. This may include limiting, suspending or cancelling a practitioner's registration and their ability to practise.

## If you have concerns about a health practitioner

The role of the National Boards and AHPRA is to protect the public.

Anyone with concerns about their health practitioner, or advertising by health practitioners that appears to contravene the national law or be inconsistent with these guidelines, should contact AHPRA.

The Boards rely on the public and members of the professions to bring their concerns to the Boards' attention, as advertising, particularly web-based, continues to increase and can be difficult to monitor.

## For more information

- The [Health Practitioner Regulation National Law Act 2009](#), section 133 relates to advertising
- The National Boards have *Guidelines for advertising of regulated health services*, which are published on their individual websites, accessible through [www.ahpra.gov.au](http://www.ahpra.gov.au)
- *Frequently asked questions: Advertising* are published on the AHPRA website, accessible at [www.ahpra.gov.au](http://www.ahpra.gov.au)
- For registration enquiries: 1300 419 495 (within Australia) +61 3 8708 9001 (overseas callers)
- For media enquiries: (03) 8708 9200.