

Advertising and Public Endorsement 2004. Editorially Revised 2006. Revised 2014

1. Preamble

- 1.1 Advertisements may be used to promote medical and other health related products and services (herein 'products and services'); however, advertisements may not always present relevant information in a manner that supports informed choice.
- 1.2 Patients must be able to make informed choices regarding their use of products and services. An informed choice depends on receiving reliable, balanced information, free from the influence of commercial consideration, communicated in a manner easily understood by patients.¹
- 1.3 Doctors (medical practitioners) also require reliable, balanced information to make appropriate referrals to colleagues and other health care professionals.
- 1.4 When a doctor advertises a product or service, he or she has a professional duty to ensure such advertising facilitates, and does not undermine, informed patient choice or appropriate medical referral.
- 1.5 Advertising by doctors should not reflect poorly on the medical profession, undermine the public's view of the profession, or bring the profession in to disrepute.
- 1.6 While the medical profession, and other health care professionals, must adhere to relevant laws and guidelines related to advertising,¹ this position statement provides additional ethical advice on how doctors should advertise products and services.²

2. Definitions

- 2.1 For the purposes of this position statement, medical and other health-related services includes facilities (such as a General Practice surgery) as well as procedures.
- 2.2 For the purposes of this position statement, advertising includes any statement, pictorial representation or design, intended directly or indirectly to promote the use or supply of products or services.ⁱ
- 2.3 For the purposes of this position statement, endorsement refers to a specific form of advertising where an individual (or group or institution) 'endorses', or publicly provides their support and approval of, a product or service (other than their own medical practice), in return for financial or other material compensation.
- 2.4 Advertising may arise in various formats including, but not limited to, all forms of print and electronic media, as outlined by the Australian Health Practitioner Regulation Agencyⁱⁱ, including social media. This includes situations where the doctor provides information for media reports, magazine articles or advertorials including where doctors make comment or provide information on certain products or services.ⁱⁱ

3. Ethical principles for advertising and endorsement by doctors

- 3.1 The doctor's primary duty is to act in the best interest of patients. In order to do this, doctors must maintain their professional autonomy, clinical independence, and integrity. Relationships between doctors and the medical, health care, or other industries must not compromise, or be perceived to compromise, the doctor's professional judgment, capacity to serve patients' interests, or the community's trust in the integrity of the medical profession.

¹ For example, the Australian Health Practitioner Regulation Agency's *Guidelines for Advertising Regulated Health Services*, the Australian Consumer Law, the *Therapeutic Goods Act 1989 (Cth)*, and the Therapeutic Goods Advertising Code.

² The AMA's *Position Statement on Direct-to-Consumer Advertising 2007* addresses public advertising and promotional activities undertaken by pharmaceutical and other relevant commercial industries directly to the public.

- 3.2 Advertising by doctors should never put commercial interests ahead of patients' health and well-being – it should be objective, not persuasive, so that patients can make informed choices. For example, they should³:
- be truthful – they should not be false, deceptive, or misleading;
 - be fair, accurate, accountable, and transparent – information provided should be factual and verifiable;
 - not be discriminatory nor denigrate other products, procedures, or services;
 - not create an unwarranted use of a product, procedure, or service;
 - not unduly induce patients to use a product, procedure, or service. Advertisements should not attempt to induce fear or concern in patients regarding their own health care in order to increase demand for a product, procedure, or service;
 - not exploit patients' vulnerability or lack of medical or health-related knowledge;
 - not claim one's own services are superior to those provided by another doctor or health professional;
 - not encourage, solicit, or use testimonials or purported testimonials about one's own services.
- 3.3 The use of gifts, discounts, or prizes in advertising by doctors is not appropriate.
- 3.4 A doctor may receive a financial or other material benefit for promoting health care, or non-health care, related products or services. In either circumstance, the nature of the doctor's relationship with the relevant organisation (or individual) should be open, accountable, and transparent.
- 3.5 Within the doctor-patient relationship, a doctor should only recommend health care related products and services based on the health care needs of the patient. Where a doctor recommends a product or service in which he or she has a financial interest, this should be disclosed to the patient at the time the recommendation is made; for example, where the doctor recommends a product or service that he or she is paid to publicly endorse.

4. Advertising of medical services

- 4.1 The chief purpose of advertising of medical services is to present information that is reasonably needed by patients, doctors, and other health care professionals to make informed decisions about the appropriateness and availability of the medical services offered; for example, factual information about professional qualifications, services, and practice arrangements.

5. Advertising of other commercial products and services

- 5.1 Doctors should be aware their professional status may be sought after by commercial entities to promote products and services directly to the public. Products and services may include therapeutic goods, non-therapeutic goods, health-related services, and non health-related services.
- 5.2 Doctors should not promote therapeutic goods or procedures directly to the public. Therapeutic goods include prescription medicines, over the counter medicines, complementary medicines, and medical devices.ⁱⁱⁱ
- 5.3. Doctors should exercise caution in promoting:
- any particular non-therapeutic good. Doctors should not have any public association with products that clearly affect health adversely;
 - health care-related services such as pharmacies, nursing homes, and private clinics;
 - products and services not directly related to health care.

³ For an extensive list of examples of advertising that comply with the National Law, refer to the Australian Health Practitioner Regulation Agency's *Guidelines for Advertising Regulated Health Services*.

6. Use of professional status to promote public health information or to engage in public discourse and advocacy

- 6.1 Doctors may promote public health information as part of a public health campaign or public health activities.
- 6.2 Doctors may raise public awareness of particular products and services through legitimate public discourse and advocacy.

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References

- ⁱ Australian Medical Association. *Position Statement on Direct-to-Consumer Advertising 2007*.
- ⁱⁱ Australian Health Practitioner Regulation Agency. *Guidelines for Advertising Regulated Health Services*.
- ⁱⁱⁱ Therapeutic Goods Administration. *Therapeutic Goods Advertising Code 2007*.