

25 November 2019

The Medical Board of Australia

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Submissions on Prohibition on using testimonials (or purported testimonials) to advertise a regulated health services

Introduction

The Medical Board of Australia is currently consulting in relation to a review of the *Guidelines for advertising a regulated health service*. We would like to use this opportunity to contest the current position and provide our submission in relation to Prohibition on using **testimonials**.

The current situation

A section 133(1)(c) of the National Law specifically prohibits advertising a regulated health service in a way that uses testimonials or purported testimonials. However, most of the ART Providers in Australia use testimonials as a wide marketing practice on their media platforms.

In a recent email received on 29 October 2019, [REDACTED] confirmed that they have been receiving information on a regular basis from registered ART providers about the advertising practices of other providers. There is clearly within the industry at present negative behaviour/attitude with regard to reporting presumed breaches by competitor ART providers and their advertising in Australia.

The challenges

Genea has received complaints that we do not comply with the *Health Practitioner Regulation National Law*. Genea was considered in breach because of our advertising included testimonials or purported testimonials; and which creates an unreasonable expectation of beneficial treatment. Also, by referring to the outcomes achieved for these patients, without specifying these are not necessarily the outcomes that would be achieved for every patient, may mislead consumers and create unreasonable expectations of beneficial treatment.

Please note that we have treated these complaints very seriously and we have taken these opportunities to review all our advertising to ensure that it complies with our legal obligations.

The paramount priority, for us as well as for you, is **public safety**. We understand that fertility treatment for our patients is a very costly and emotional journey and that there are many vulnerable patients who may be influenced by unacceptable advertising. On the other hand, we strongly believe that sharing patient stories helps people experiencing infertility to understand that they are not alone.

Hearing about other people experiencing the same challenges is a powerful way to **break the isolation and stigma** that often surrounds infertility. We share these stories with the intent to inform, educate

and comfort and have no intention for our community to believe the stories told are the outcomes that would be achieved for every patient.

Genea is passionate about developing content that educates around a broad range of fertility topics and is part of our overarching strategy of breaking the taboo on societal pressures couples face in relation to fertility choices. We also believe that what needs to be considered is, the changing landscape of patient behaviour in health, including the use of social media. The consumer voice also cannot be ignored with patients wanting to hear more personal stories and craving more information to help take control of their own journey to parenthood. Patients want to read or watch stories when they are researching fertility treatment.

The consumer voices

When consulting with the community to ask if they found this type of content helpful, the response has been overwhelmingly, yes. Below is a sample of some of the responses we have received to date:

I used to look for other stories to read when we were going through our IVF journey. All of the emotions felt so intense and no one seemed to understand. There were no support groups available, I felt isolated and hearing about other people's experiences helped to normalize the process for me. I still read them now and find great comfort in them; a reminder I suppose that I wasn't alone in all that I felt and thought. When I meet people now who are experiencing infertility I am very open and honest in talking about it as I believe there is not enough support out there or discussion around it. These stories are so important and I am very thankful to Genea for continuing to share them.

I like the stories. I like that we share experiences. I like knowing that there are others going through what I go/went through. I like that it normalises the conversation. I like that it helps our family and friends to understand too.

I think something would definitely be lost, if the telling of stories was taken away.

I use to watch stories on you tube as I found to interesting to hear about other people's journeys. I am also part of IVF support pages which were so helpful to have others to talk to who were going via treatment. Most of the ladies are so supportive and rejoice when others get there BFP and offer support when treatments don't work or precious pregnancies don't make it

Please continue to contribute via social media the facts and personal stories associated with fertility and infertility. It gives a voice and hope to those going through their own journey. Your holistic approach to the struggles that women and families endure helps to keep them and other readers informed of the best practice and developments that are available. Keep up the good work. Thank you.

The stories patients share are honest and real and important. Not all of the stories shared are positive and I perceive the advertising genea makes doesn't promise results. It is so important to share patient stories to decrease stigma and to give peers hope and reduce stigma, like a peer support network. I hope the patient content remains.

In relation to our videos, please note that these were carefully curated to ensure that the patients were discussing their own personal story of fertility treatment. It is our understanding that this is permitted. They were designed to help empower couples to make appropriate decisions regarding

treatment, that as you know, can be very difficult due to the lack of education around fertility and treatments options.

Summary

By balancing both sides of the abovementioned arguments (public safety versus stigma and lack of information), we believe that we found an acceptable solution, which would comply with the public safety initiative. This will avoid any misleading statements, will not create any unreasonable expectations and at the same time will contribute to public awareness, education and diminish any stigma and isolation.

We have prepared this disclaimer which appears on all platforms where this content may be shared, including social media platforms and websites.

Genea shares patient stories to help people experiencing infertility to understand that they are not alone. Hearing about other people experiencing the same challenges is a powerful way to break the isolation and stigma that often surrounds infertility. We share these stories with the intent to inform, educate and comfort and have no intention to create unreasonable expectations of beneficial treatment. Similarly, we have no intention for our community to believe the stories told are the outcomes that would be achieved for every patient.

We are also seeking to include some stories for patients who have not had a successful outcome from fertility treatment. This will assist understanding that achieving a child from assisted reproduction treatment is not a 100% guarantee and will further educate and comfort those in a similar position.

[REDACTED]

[REDACTED]

[REDACTED]

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