



Aboriginal and Torres Strait
Islander Health Practice
Chinese Medicine
Chiropractic
Dental
Medical
Medical Radiation Practice
Nursing and Midwifery
Occupational Therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Australian Health Practitioner Regulation Agency

Response template: Public consultation - revised *Guidelines for advertising regulated health services*

National Boards and the Australian Health Practitioner Regulation Agency (AHPRA) are seeking feedback about the revised *Guidelines for advertising regulated health services*.

This response template is an alternative to providing your response through the online platform available on the consultation [website](#).

IMPORTANT INFORMATION

Privacy

Your response will be anonymous unless you choose to provide your name and/or the name of your organisation.

The information collected will be used by AHPRA to evaluate the revised guidelines. The information will be handled in accordance with AHPRA's privacy policy available [here](#).

Publication of responses

Published responses will include the name (if provided) of the individual and/or the organisation that made the response.

You must let us know if you do **not** want us to publish your response.

Please see the [public consultation papers](#) for more information about publication of responses.

Submitting your response

Please send your response to: AHPRA.consultation@ahpra.gov.au

Please use the subject line: Feedback on guidelines for advertising regulated health services

Responses are due by: **26 November 2019**

General information about your response

Are you responding on behalf of an organisation?	
Yes	What is the name of your organisation? Australian College of Nursing (ACN)
No	Are you a registered health practitioner? Yes/No If yes, which profession(s)? Are you a student? Yes/No If yes, which profession?
We may need to contact you about your response. Please write your name and contact details below. (Skip if you wish to remain anonymous)	
Name (optional)	████████████████████
Contact details (optional)	████████████████████ ████████████████████ ████████████████████ ████████████████████ ████████████████████

Public consultation questions

Please ensure you have read the [public consultation papers](#) before providing feedback as the questions are specific to the revised Guidelines for advertising regulated health services.

Use the corresponding text boxes to provide your responses. You do not need to answer every question if you have no comment.

1. How clear are the revised guidelines?
<p>The Guidelines are clear and well written although they do contain a great deal of information which may make it hard for health practitioners and/or their advertising agencies to readily find the material they need in order to meet the requirements.</p> <p>A 'check list' would be helpful, especially for first time health practitioners wishing to advertise, and/or a link embedded in the Guidelines to APHRA's "Check and correct your advertising" site (https://www.ahpra.gov.au/Publications/Advertising-resources/Check-and-correct.aspx)</p>
2. How relevant is the content of the revised guidelines?
<p>It is very relevant, especially the sections which provide advice on the pitfalls associated with social media and constraints on the use of testimonials – especially unsolicited testimonials (Sections 4.3; 4.3.1-4.3.3 and 'social media' in the definitions section on p17).</p>
3. Please describe any content that needs to be changed or deleted in the revised guidelines.
<p>Without wishing to add to the length and complexity of the Guidelines, ACN would like to make the following suggestions for changes (there are no suggested deletions).</p> <ul style="list-style-type: none">- Section 4.1.3 includes explanation of "Titles..." and notes that "The National Law regulates the use of certain titles" going on to explain how to use the title "Doctor" which is not a protected title. There are six protected titles applicable to nurses and midwives as outlined by the NMBA: "Fact sheet: The use of health practitioner protected titles"; https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/FAQ/The-use-of-health-practitioner-protected-titles.aspx <p>ACN therefore suggests that the Guidelines explain this and include a cross reference to the NMBA Fact Sheet and website just cited, preferably as a separate heading under the current heading "Use of the title doctor" (p11).</p> <ul style="list-style-type: none">- Sections 4.1.2 describing "acceptable evidence" is most helpful as is the flow chart at the end of this section. Section 4.2 "Gifts, discounts or inducements" is likewise helpful. What is missing from the two however, is any advertising related to clinical trials (RCT's in particular) and the dangers for participants that can accompany that 'recruiting' type of advertising. ACN suggests a link to the <i>National Statement on Ethical Conduct in Human Research</i> (National Statement) be provided: https://www.nhmrc.gov.au/about-us/publications/national-statement-ethical-conduct-human-research-2007-updated-2018 <p>A short explanatory text would be helpful as would specific reference to Section 2.2.1 "Reimbursing participants" and to sections 2.2.6 (j); 3.1.10; 3.1.29 and 3.1.22 which also apply. The National Statement could also be added to Appendix 1 as a separate heading (as per current reference to "Therapeutic Goods")</p>

- Section 4.1 of the Guidelines (“False, misleading or deceptive advertising”) explains the advertising requirements of the National Law. For the purposes of further clarification, ACN members suggest embedding a weblink to the section of the APHRA website titled “What is false, misleading or deceptive advertising?”

<https://www.ahpra.gov.au/Publications/Advertising-resources/What-health-practitioners-and-healthcare-providers-need-to-know/Inappropriate-claims-of-benefit.aspx>

Our members further suggest that in the “Check and correct your advertising” section of the “Resources” website, an example of nursing be included. Currently the examples pertain to “All regulated health professionals”, osteopathy, Chinese Medicine and Chiropractic <https://www.ahpra.gov.au/Publications/Advertising-resources/Check-and-correct.aspx>

Nurses are the majority of the health care workforce so including examples for this cohort of health practitioners is a sensible inclusion.

- ACN would advise inclusion of the concept of informed consent in Section 4.4.1 which outlines the use of “Images and Photographs”. The section of the Guidelines titled “Use of ‘before and after’ images...” explains how to make these images less misleading. It is here that ACN suggests an additional dot point be added to the effect that even if ‘before and after’ images are “used within an individual consultation” the consent of the person whose images are being used in this manner, must be obtained and having that consent needs to be communicated before the images are used. There is the potential for a breach of privacy otherwise as is noted by APHRA itself in the Resources section of the website titled: “Social media: How to meet your obligations under the National Law...Patient Confidentiality....Example 2”.

<https://www.ahpra.gov.au/Publications/Advertising-resources/Social-media-guidance.aspx> . It may be helpful to include this weblink in the final version of the Guidelines?

- The reference in Appendix 1 to “Therapeutic Goods” needs to be changed to Therapeutic Good Administration to accurately reflect its correct title on the website: <https://www.tga.gov.au> (The Guidelines do reference the correct website: it’s the title that is incorrect).

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4. Should some of the content be moved out of the revised guidelines to be published in the advertising resources section of the AHPRA website instead?

If yes, please describe what should be moved and your reasons why.

No. The Guidelines need to be published in their entirety on the APHRA website.

It would however be helpful to have more embedded links in the Guidelines to other advertising related resources on the APHRA website, for example, “What is false, misleading or deceptive advertising?” <https://www.ahpra.gov.au/Publications/Advertising-resources/What-health-practitioners-and-healthcare-providers-need-to-know/Inappropriate-claims-of-benefit.aspx>

See too response above to Q3.

5. How helpful is the structure of the revised guidelines?

Our members recommend that there is less content per page, or that it is formatted differently. The current draft appears somewhat text-heavy and can be difficult to follow. See above response to Q4 for clarification and suggestions.

The definitions section in Appendix 1 is helpful. ACN would suggest adding reference to the *National Statement on Ethical Conduct in Human Research* to Appendix 1 as a separate heading: see response to Q3 above.

6. Are the flow charts and diagrams helpful?

Please explain your answer.

Yes. Although small in number they assist the user in logically working through whether a situation is in breach of the National Law so facilitating health practitioner advertising that is more likely than not to meet the requirements of the National Law.

7. Is there anything that needs to be added to the revised guidelines?

See responses to Q's 3 and 4 above for suggestions.

8. It is proposed that the guidelines will be reviewed every five years, or earlier if required.

Is this reasonable?

Please explain your answer.

Yes, this ensures the guidelines remain contemporary and current. It would also meet the COAG principles for best practice regulation, especially in terms of consumer protection and cost and benefits, as set out in the current "Statement of assessment" accompanying the revised Guidelines

9. Please describe anything else the National Boards should consider in the review of the guidelines.

Nothing further to add

10. Please add any other comments or suggestions for the revised guidelines.

Thank you for the opportunity to provide feedback.

Thank you!

Thank you for participating in the consultation.

Your answers will be used by the National Boards and AHPRA to improve the Guidelines for advertising regulated health services.