



Advertising

Key points about advertising

Clear and accurate information about doctors and the services they provide helps patients make informed decisions about their care and treatment.

As a doctor, you must ensure that you advertise in a way that is responsible and ethical, and does not exploit or damage the trust and confidence that patients and the public have in doctors.

You are responsible for the content of your advertisement, even if a third party wrote the advertisement on your behalf.

Testimonials can create unrealistic patient expectations and must not be used in your advertisement or quoted on any platforms you control that advertise your services.

You should not use your position as a doctor to endorse any medical products or methods of treatment in your advertisement.

About this statement

Many doctors advertise to create awareness of their skills, expertise and services. Clear and accurate information about doctors and the services they provide helps patients make informed decisions about their care and treatment.

Conversely, false, misleading or deceptive¹ advertisements could be harmful. Such advertisements can create unrealistic expectations and prompt patients to seek inappropriate or unnecessary care and treatment.

This statement sets out our expectations of doctors who advertise. It may be used by Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand, the Health Practitioners Disciplinary Tribunal, and the Health and Disability Commissioner as a standard to assess your conduct.

There are also other standards on advertising. They include general laws on advertising and more specific standards for health-related advertising set by the Advertising Standards Authority. You should familiarise yourself with the relevant standards and ensure that your advertisement complies with them as well as our statement.

Terms we use in this statement

Advertisement/Advertising: Any communication that is oral, in print, through electronic media or on the internet by or on behalf of a doctor to the public, to provide information about the doctor, the doctor's services, or the clinic or group where the doctor practises or with which the doctor is associated.²

¹ False, misleading or deceptive advertising can also give rise to a breach of the Fair Trading Act 1986 which carries a fine up to of to \$200,000 for an individual, and up to \$600,000 for a body corporate.

² 'Associated' includes being involved in the ownership, governance, shareholding, management, operation or promotion of a service, clinic or a group of clinics.

Our definition of Advertisement/Advertising excludes:

- a. material given to patients during consultations where that material is intended to explain and help a patient understand a health condition or a proposed procedure, treatment or medication
- b. material distributed for the purpose of public health or as part of a public health programme.³

Testimonial: A recommendation or positive statement that a person makes about another person such as:

- a. comments from patients about a doctor's care, skill, treatment, expertise or knowledge
- b. expressions of appreciation or esteem, character references, or statements about how the care was beneficial
- c. feedback and endorsements from colleagues, other health care professionals, friends, family/whānau and other people in the doctor's network
- d. comments shared or disseminated from websites, social media platforms or online fora in order to promote your own practice or profile as a doctor.

Our expectations for when you advertise

1. There is an inherent power and knowledge imbalance in a doctor-patient relationship. Patients and the public are inclined to trust what a doctor says whether that communication occurs orally or in writing. For this reason, you must ensure that:
 - a. you advertise in a way that is responsible and ethical
 - b. your advertisement does not exploit or damage the trust and confidence that patients and the public have in doctors.
2. Some patients could be particularly vulnerable. They may be inclined to believe claims about certain treatments and to seek out those treatments. You must not take advantage of patients' vulnerabilities when you advertise.
3. Your advertisement must not reinforce any stereotypes in how it represents a particular person or a group of people.

Ensure that the information you include is truthful and balanced

4. Your advertisement must be truthful and balanced.⁴ When you make a claim or include scientific information in advertising, the content should:
 - a. be valid, evidence-based and substantiated
 - b. be clear and easy to understand
 - c. be from a reputable and verifiable source⁵
 - d. identify clearly the relevant researchers, any funding received, and the publication that the results are sourced from.

Discuss different treatment options with patients without making direct comparison with other doctors

5. Good medical practice includes discussing different treatment options with patients and helping them make informed decisions about their care.⁶ However, you should not:
 - a. make direct comparisons between the quality of your services and the quality of services your colleagues provide
 - b. infer or imply any superiority over another doctor or their services.

³ The New Zealand Ministry of Health describes 'public health' as 'the science and art of promoting health, preventing disease and prolonging life through the organised efforts of society.' The focus is on protecting and promoting the health of populations rather than treating diseases, disorders and disabilities in individuals. Refer to the Ministry of Health's website for more information.

⁴ Under the Fair Trading Act 1986, it is an offence to make a claim without reasonable grounds.

⁵ For example, peer reviewed research that has been published in an academic journal.

⁶ See also our statement on *Informed consent: Helping patients make informed decisions about their care*.

Do not encourage or pressure patients to seek inappropriate or unnecessary care and treatment

6. You must not encourage patients to seek care and treatment where there is no clinical basis for that care. Doing so is potentially unethical and a poor use of resources, and could impact on other patients who may require care more urgently.
7. You must not pressure people to use your service. For example, you should not create unfounded fear about a person's future health or about certain health conditions.
8. You must not advertise your services by approaching prospective patients directly, for example by visiting, emailing or telephoning them, either in person or through an agent.⁷

Do not glamourise a product or service, or create unrealistic expectations of outcomes

9. Advertisements must not unduly glamourise products and services or foster unrealistic expectations. Testimonials can create unrealistic expectation of outcomes in patients and must not be used or quoted in your advertising or on any websites, social media fora or any other platforms you control that advertise your services.⁸

Exercise caution when using any images in your advertising

10. Think carefully before including any images in your advertising. Images, particularly "before and after" photos, have a significant potential to mislead or deceive, to give the impression or create an expectation of a successful outcome, and to encourage unnecessary use of services. If you use "before and after" photos you must ensure that they:
 - a. are there solely for the purpose of providing accurate and useful information to patients
 - b. portray a realistic outcome that patients could expect
 - c. only feature patients who have undergone the advertised procedure while under your (or your services') care
 - d. have not been altered in any way
 - e. use the same lighting, contrast, background, framing, camera angle, exposure and other photographic techniques in both the "before" and "after" images
 - f. are consistent in appearance including posture, clothing and make-up
 - g. are only used when the patient featured has given their full informed consent.

Including titles qualifications and memberships in your advertisement

11. Advertising titles, qualifications or memberships may provide the public with information about your skills, training, and experience. However, your titles, qualifications and memberships could be confusing or misleading if patients think that you are more skilled, experienced or qualified than is the actual case.
12. When advertising qualifications, you may only advertise those that:
 - a. appear on the Medical Council register; or
 - b. are conferred or awarded by your college or another training organisation that has been accredited by us or by another New Zealand responsible authority.⁹
13. Medicine is full of acronyms, and many of these could confuse patients rather than inform them. Avoid abbreviations the first time your qualifications appear in your advertisement. For example, you should use "Fellow of the Royal Australasian College of Surgeons" rather than "FRACS" the first time it is referred to in any promotional material.

⁷ It is appropriate to contact former patients to re-enrol them into a Primary Health Organisation.

⁸ You must not encourage patients to leave testimonials on websites or other platforms you control that advertise your or your practice's services, nor should you encourage patients to submit testimonials about your or your practice's services to third party websites. It is your responsibility to monitor regularly the content of such websites or platforms and to remove any testimonials that are posted there. However, you are not responsible for any unsolicited testimonials or comments that are published on a website, in social media or other forms of media over which you do not have control.

⁹ 'New Zealand responsible authority' refers to a registration body under the Health Practitioners Competence Assurance Act 2003 that registers practitioners of a health profession.

Endorsing medical products or methods of treatment within advertisements

14. As a doctor, you should not endorse any medical products or methods of treatment in your advertisement.¹⁰
15. If you are acting as an agent for, or have a financial or other interest in, a medical product or method of treatment, you should declare your interest within the advertisement in a way that does not endorse the product or method of treatment. Where that interest conflicts with or compromises the patient's care, you must advise the patient of the conflict, and ensure that they have access to alternative sources of care.

Offering discount coupons, gift certificates, online deals and vouchers

16. If you offer inducements such as discount coupons, online deals and vouchers or gift certificates, you must ensure that they do not undermine your relationship with the patient and the informed consent process. In particular, you must make it clear that:
 - a. buying the deal, coupon or certificate does not equate to informed consent from the patient
 - b. you will assess the patient and discuss treatment options before going ahead with any treatment
 - c. the patient has the right to opt out of the treatment at any time
 - d. you will not provide the treatment if your assessment indicates that the patient is not a suitable candidate.
17. You should not offer medical assessments or treatments as a prize or gift where your objective is to make money and/or to increase your or your practice's profile.

Responsibility for the content of advertisements

18. You are responsible for the content of your advertisement, even if a third party wrote the advertisement on your behalf.
19. If you practise on your own or in a partnership, you cannot delegate the responsibility for complying with this statement to an administrator, manager, director or any other person.
20. If you are in a management or governance role, you may be responsible for the content of any advertising that your organisation publishes.
21. In situations where you provide information or an opinion to the media (including in person, print and online media), you are responsible for the comments you make and the information you provide.

If you have questions or concerns about your or another doctor's advertising

22. If you are not sure whether your advertisement meets legal requirements, we recommend that you seek legal advice or access an advertising pre-vetting service.
23. If you have a concern about another doctor's advertising, you should contact us. Where the advertising appears to breach a code or law, we may refer your concerns to another agency, such as the Advertising Standards Complaints Board or the Commerce Commission. We may also initiate our own process where the advertisement raises conduct concerns.

April 2022

This statement was updated in April 2022. It replaces the November 2016 statement on *Advertising*. It is scheduled for another review in 2027. Any changes to the law before our next review date may make parts of this statement obsolete.

¹⁰ See Part 4 of the Medicines Act 1981 for further detail.
