

CONSULTATION: ADVERTISING POLICY

Open: Wednesday 11 September 2024

Close: Friday 18 October 2024

Introduction

Te Poari Kaikorohiti o Aotearoa | the Chiropractic Board (Board) is committed to ensuring that advertising within the chiropractic profession upholds the highest standards of integrity, accuracy, and public safety.

As part of this commitment, the Board completed a comprehensive review of the existing Advertising Policy (last updated in November 2015). This review led to the development of a revised document, now referred to as the Advertising Standards.

Consultation Process:

The Board invites all stakeholders, including practitioners, professional associations, and the public, to review the revised Advertising Standards and provide feedback. Your input is crucial to ensure these standards are practical, clear, and effective in safeguarding both the public and the profession.

Your feedback will be considered by the board.

Feedback and submissions

We encourage you to carefully review the proposed changes and submit your comments.

Submission can be made via an online survey or written responses can be emailed to

admin@chiropracticboard.org.nz

Relevant links:

- [Current Advertising Policy](#)
- [Online survey](#)

The Board thanks you in advance for taking the time to read through the revised policy.

ADVERTISING STANDARDS

Introduction

The role of Te Poari Kaikorohiti o Aotearoa | the Chiropractic Board (the Board) is to protect public safety and to oversee professional standards in the Chiropractic profession. The Board ensures chiropractors meet and maintain professional standards of education, conduct and performance, ensuring chiropractors deliver high quality healthcare to the public. The Board will hold chiropractors to account if their conduct falls short of these standards.

Purpose

The Advertising Standards sets the minimum standards for chiropractors when advertising, ensuring the public is protected from false, deceptive, or misleading advertisements. It aims to guide practitioners in making decisions about advertising their professional services and forms part of the framework that will guide the Board when considering complaints regarding advertising.

Definition of advertising

Advertising means any words, whether written, printed, or spoken, and any pictorial representation or design, used or appearing to be used to promote the sale of medicines or medical devices or the use of any method of treatment; and includes any trade circular, any label, and any advertisement in a trade journal; and advertising and advertised have corresponding meanings¹.

Public safety

A chiropractor must acknowledge that there exists the potential for harm to the public should their advertising not meet the required standard. Misleading advertising can cause misunderstandings about the benefits, effectiveness, and safety of treatments, leading to unnecessary or inappropriate services. Misleading advertising poses a risk to vulnerable individuals who may lack sufficient knowledge to assess the suitability of certain services.

¹ Medicines Act 1981 s.56



Legislation and advertising codes

Practitioners have an obligation to be aware of, and comply with, all aspects of advertising regulation. All advertising must meet these legislated requirements.

The standards and guidance are based on practitioners' legal and professional obligations described in legislation and codes related to advertising and the resulting provision of goods and services, including the:

- [Health Practitioners Competence Assurance Act 2003](#)
- [HDC Code of Health and Disability Services Consumers' Rights Regulation 1996](#)
- [Consumer Guarantees Act 1993](#)
- [Medicines Act 1981](#)
- [Fair Trading Act 1986](#)
- [ASA Advertising Standards Code 2018](#)
- [ASA Therapeutic and Health Advertising Code 2016](#)
- [The Broad Casting Standards Authority](#)

The Advertising Standards Code and the Therapeutic and Health Advertising Code published by the Advertising Standards Authority are relevant as they provide guidance as to good advertising practice.

Medicines Act 1981

Regulations relating to the advertisement of all therapeutic services and products in New Zealand are contained in the [Medicines Act 1981](#)

[Section 58 of the Medicines Act 1981](#)

- S.58(1)(a) restricts the publication of advertisements for medical treatment, devices or medicines which claim to prevent, cure, or alleviate any disease, or prevent, reduce or terminate any physiological condition listed in Schedule 1, Part 1.
- S.58(1)(b) restricts the publication of advertisements for medical treatment, devices or medicines which are claimed to prevent, or cure any disease, or prevent or terminate any physiological condition listed in Schedule 1, Part 2.
- S.58(1)(c) states that it is an offence to imply, claim, indicate or suggest that a medicine, treatment, or device is a panacea or infallible for any condition or is recommended by an appropriately qualified person or had beneficially affected the health of a particular person or class of persons, whether real or fictitious.

Complaints regarding breaches of advertising standards

Concerns about advertising should be notified to the Board. These may be raised by any member of the public or profession.

Where there appears to be an advertising breach, the Board may refer it to other agencies including but not limited to the Health and Disability Commissioner or the Commerce Commission. Any referral to an agency does not negate the Board's ability to progress a complaint through its own processes.

Should the Board conclude there are grounds for investigation of a breach of standards this has the potential to attract disciplinary proceedings under the Health Practitioners Competence Assurance Act 2003.

Questions about advertising

If chiropractors are unsure whether an advertisement meets legal, industry and Board requirements then they should consider making use of the Therapeutic Advertising Pre-Vetting Services (TAPS). TAPS is a commercial service provided under the auspices of the Association of New Zealand Advertisers and is intended to assist advertisers with compliance issues. Contact TAPS at anza@anza.co.nz or on 09 488 7455.

ADVERTISING STANDARDS

1. You must not advertise in a way that will, or is likely to mislead, deceive, or confuse the public.

Guidance

- a. Regardless of the form the advertisement takes or the platform where it appears, it should be made clear the public are being exposed to an advertisement.
- b. Take care to:
 - a) not place your advertisement where it is likely to mislead or confuse the public
 - b) communicate honestly, factually and without exaggeration.
 - c) avoid emotive, vulgar or sensational language.
 - d) glamorise or portray unrealistic treatment outcomes.
- c. If you use images, take care to ensure:
 - a) They are solely for the purpose of providing accurate and useful information;
 - b) They are used only when the patient has given their fully informed written consent; and
 - c) If they are “before and after” images they must:
 - i. have not been altered in any way;
 - ii. show a realistic portrayal of the outcome that can typically be expected;
 - iii. are consistent regarding positioning, lighting, camera angle and posture.
- d. Minimise technical terms and jargon to avoid misleading the public.
- e. Ensure scientific language is appropriate and easily understood by the public.
- f. The Medicines Act 1981 does not permit registered health practitioners to endorse a medicine or medical device in advertisements to consumers.
- g. Take care to not advertise material if it breaches the Fair Trading Act 1986. In that you:
 - a) engage in conduct that is false, misleading or deceptive, or likely to mislead or deceive;
 - b) claim or imply that you are superior to any other chiropractor or other health professional or compare your practice with that of any other chiropractor or health professional;
 - c) claim to hold expertise in a field of practice for which you do not possess the required skills, knowledge, training or qualifications necessary to practice in that field;
 - d) do not claim you have personal prominence in the practice of chiropractic or the profession; and

- e) publish or causes to be published an advertisement for chiropractic services which indicates you practice at a location unless you regularly attend that location during your practice.
- h. The title “Chiropractor” is protected by the HPCA Act. If you use the title “Doctor” or “Dr”, you must clearly qualify this by identifying yourself as a chiropractor. Only those who hold a Doctor of Chiropractic degree can use this term or the qualification abbreviation DC.
- i. Make sure your advertising does not include claims that you are a specialist for example ‘Dr John Doe, chiropractor, paediatric specialist’, or that you are superior in any way to your colleagues.

2. You must ensure the accuracy of your advertising and not withhold information.

Guidance

- a. When employing the technical expertise of others, take care to understand what your ‘expert’ is producing and or publishing on your behalf, and that it does not result in inaccurate or misleading advertising. For example, when using forms of digital marketing to advertise your services.
- b. All advertisements must clearly disclose the use of AI-generated content. Advertisers are responsible for ensuring that any AI-driven or created content is accurate, transparent, and does not mislead consumers.
- c. In New Zealand the legal principle of vicarious liability is applicable. This means you are responsible for the action or non-action of your advertising agent.
- d. Present scientific information accurately. Use scientific terminology that is appropriate and able to be readily understood by the public.
- e. Make sure if your advertisement claims or implies an endorsement, that you have gained the prior consent of the endorser. Clearly name the endorser and make sure the endorsement is current and can be verified.
- f. The Fair Trading Act and Consumer Guarantees Act are legislation concerned with the use of gifts, prizes, coupons or gift certificates. No person shall offer gifts, prizes, or other free items with the intention of not providing them or of not providing them as offered
- g. Ensure coupons or certificates are clear that:
 - a. the purchase of the coupon or certificate does not equate to granting informed consent;
 - b. prior to redemption of the coupon or certificate, the patient will have an opportunity to discuss the service offered and to ask questions;
 - c. the patient has the right to opt out of treatment at any time;
 - d. you will not provide the requested treatment if your assessment indicates that the
- h. You should take care that:
 - a. the terms and conditions are clearly and understandably set out; and
 - b. the best interests of health consumers are considered when making such an offer; and

- c. any offer does not contravene the Code of Health and Disability Services Consumers' Rights; and
- d. in offering goods or services, ensure the product or service is appropriate; and
- e. any discounted services are delivered with the same level of care and attention to detail as regular-priced services. For example, for a 50% discounted new patient consult, the time allocated, paperwork and tests would be the same as a full paying new patient consult.

3. You must be certain that any claims you make in your advertising, either implied or stated, are supported by the best available evidence.

Guidance

- a. Be able to support any claims you make in an advertisement using valid and reliable evidence by producing that evidence in a timely manner. It is an offence under the Fair-Trading Act to make a claim in an advertisement that cannot be substantiated.
- b. You are responsible for evaluating the available evidence to support any claims made in your advertising. This includes claims sourced from a therapeutic products supplier or manufacturer's promotional material. Therapeutic suppliers and manufacturers are not regulated by the Board or held to our standards.

4. All advertising must fall within your registered scope of practice.

Guidance

- a. It is an offence under the Health Practitioners Competence Assurance Act to claim (explicitly or implicitly) to be a regulated health practitioner of a particular kind if you are not registered as such in Aotearoa New Zealand.
- b. References to professional qualifications should be limited to qualifications obtained from accredited institutions through examination or formal assessment. The use of titles and qualifications may be misleading or deceptive if health consumers can interpret the advertisements to infer that you are more skilled or has greater experience than is the case.
- c. Make sure you do not claim to hold expertise in a field of practice for which you do not possess the required skills, knowledge, training, or qualifications necessary to practice in that field.

5. You must ensure your social media platforms adhere to these advertising standards.

Guidance

- a. Whether an online activity can be viewed by the public or is limited to a specific group of people, you must meet professional standards and be aware of the implications of your actions.

- b. You need to be aware that information circulated on social media may end up in the public domain, and remain there, irrespective of the intent at the time of posting.
- c. You must maintain patient confidentiality, the potential for allegations of defamation and the need to maintain appropriate professional boundaries.
- d. You need to take care to:
 - a. monitor your social media presence to ensure that the information meets the advertising practice standard
 - b. recognise that actions online and content posted can negatively affect your reputation among patients and colleagues.
 - c. take all reasonable and practical steps to remove testimonials that breach the legislation of the Medicines Act 1981.
 - d. obtain patient consent, in writing, for the use of any personal images or information related to your patients on your social media sites.

6. You must not use or encourage testimonials to promote you or your practice that contravene the legislation contained within the Medicines Act 1981

Guidance

- a. Testimonials can create an unrealistic expectation of outcomes for individual health consumers, and you must not use or quote them in your advertising, on any website, social media forum or any other platform that advertises your services.
- b. Take all reasonable and practical steps to remove testimonials that breach the legislation of the Medicines Act once you become aware of them.

7. You must ensure that any public place marketing that occurs is aimed at promoting the profession and increasing the awareness of the public of the benefits of chiropractic management, and not for the sole purpose of practice building.

Guidance

- a. Take care that the term “screening” is not used, as it carries a particular meaning within the New Zealand health environment. “Screening” is defined by the National Health Committee as: “a health service in which members of a defined population, who do not necessarily perceive they are at risk of, or who are already affected by, a disease or its complications, are asked a question or offered a test to identify those individuals who are more likely to be helped than harmed by further tests or treatments to reduce the risk of disease or its complications.”

The Board suggests use of terms as “spinal or chiropractic checks” or “chiropractic evaluations”.

- b. It is the responsibility of the organiser to ensure that all necessary documentation (such as consents and permits) and insurances are in place prior to the commencement of the event. No notification to the Board is necessary.
- c. “Chiropractic checks” may be performed, only by:
 - a. chiropractors with a current Annual Practising Certificate (APC); or
 - b. appropriately qualified chiropractic student interns participating in an approved supervised programme under the direct overview of a chiropractor with a current APC.
- d. If you engage in public place marketing, you must ensure that:
 - a. no fee is charged for the “chiropractic check”; however, participants may make donations to an organisation nominated by the chiropractor. This must be clearly communicated to any participant or potential participant;
 - b. the participant is advised the “chiropractic check” is not a comprehensive examination and that the purpose of the “chiropractic check” is to give the participant an overview of the general state of health of their neuro-musculoskeletal system within the Scope of Practice.
- e. In performing “chiropractic checks” in a public place, chiropractors must ensure that:
 - a. informed consent is obtained from each participant before commencing any “chiropractic check”; and
 - b. they use equipment and/or procedures that have evidence of effectiveness and validity and are generally part of your practice; and
 - c. no attempt is made to:
 - i. treat or provide care to the participant;
 - ii. make a definitive diagnosis;
 - iii. deliberately create a false expectation of the outcome of any suggested chiropractic management;
 - iv. engender fear in the mind of the participant;
 - v. promise or guarantee any cure or particular outcome from treatment;
 - vi. engage in unsolicited contact with the participants after the event.
- f. If, during a “chiropractic check”, a serious health concern is noted that you or an intern would, in normal practice, refer on for appropriate medical management, then you or the intern are obliged to make provision for appropriate management.

Resources

- Australian Health Practitioner Regulation Agency: [Advertising Hub](#)
- HDC: [Code of Health and Disability Services Consumers’ Rights](#)
- Legislation:
 - [Consumer Guarantees Act 1993](#)



- [Medicines Act 1981](#)
- [Fair Trading Act 1986](#)
- [ASA Advertising Standards Code 2018](#)
- [ASA Therapeutic and Health Advertising Code 2016](#)