

## Advertising Policy

### Introduction

1. The Podiatrists Board of New Zealand (the Board) is the statutory authority established under the Health Practitioners Competence Assurance Act 2003 (HPCAA) responsible for the registration and regulation of the podiatry profession in Aotearoa New Zealand. The principal purpose of the HPCAA is to protect the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise their professions.
2. The purpose of this policy is to protect members of the public from medical (including therapeutic) advertising that is false, misleading, or deceptive, which leads to the provision of inappropriate or unnecessary health services or creates unrealistic expectations.
3. This policy provides an explanation of the Board's position on advertisements and the use of client testimonials to guide practitioners in making decisions as to advertising their professional services. This will support the appropriate use of health resources and ensure that people are able to make informed decisions about their healthcare.

### Medicines Act 1981

4. Medical or therapeutic advertisements are regulated through the Medicines Act 1981 (the Act) and the Codes of Practice<sup>1</sup> set out by the Advertising Standard Authority (ASA), as well as the Board's Ethical Codes and Standards of Conduct. Both the Medicines Act and the ASA Codes of Practice place strict limits on medical and therapeutic advertisements by all health practitioners.
5. Practitioners registered with the Podiatrists Board must ensure these Advertising Practice Standards are complied with, and should also be aware of their obligations under the Consumer Guarantees Act 1993 and the Fair Trading Act 1986, as well as the [Health and Disability Commissioner \(Code of Health and Disability Services Consumers' Rights\) Regulations 1996](#).
6. The Medicines Act contains a number of prohibitions in relation to medical advertisements, including that a person may not publish a medical advertisement that:

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<sup>1</sup> [ASA Therapeutic and Health Advertising Code](#)

- a. claims or suggests that a treatment, medicine, or device will cure, prevent, alleviate, or reduce particular physiological conditions.
  - b. suggests that a medicine or device is infallible.
  - c. suggests a medicine or device is used or recommended by another practitioner or researcher.
  - d. claims that the medicine or device has beneficially affected the health of a particular person or group of people (whether real or fictitious).
  - e. invites correspondence or sending of samples for diagnosis.
7. It is an offence not to comply with the standards outlined above (point 6). The Board would regard non-compliance with the Medicines Act and/or the ASA and Board's Ethical Codes and Standards of Conduct as having the potential to attract disciplinary proceedings under the HPCAA.
8. The Medicines Act contains a number of definitions relevant to medical advertisements and practitioners should be aware the definition of "Advertisement" is very broad and covers a number of forms and media, including social media (refer to Podiatrists Board Social Media Policy).

## Guidance on how to comply

### 9. All advertising must:

- a. be presented in a manner that is accurate, balanced and not misleading.
- b. use plain language.
- c. facts and statistics must be from a reputable and verifiable source.
- d. comply with legislative requirements.

10. Practitioners are ultimately responsible for the style and content of all advertising material and cannot devolve responsibility for the advertising of their services and or products to another party.

11. Practitioners shall not advertise any material which relates to their qualifications, practices, treatment, or the premises where they practice their profession if the material:

- a. potentially breaches the Fair Trading Act 1986.
- b. is vulgar or sensational.
- c. creates an unjustified expectation of beneficial treatment or unrealistic treatment outcomes.
- d. relates to outcomes without stating that individual results may vary.
- e. is unprofessional or likely to bring the profession into disrepute.
- f. uses testimonials whether from patients or any other person. (This includes linking patient reviews/testimonials directly to practice websites, i.e., patient google reviews).

### 12. Use of Images in Advertising

- a. Practitioners should use any images in their advertising with caution. Images,

Particularly “before and after” photos, have a significant potential to mislead or deceive. Such images may convey to a member of the public inappropriately high expectations of successful outcome and encourage the unnecessary use of services or products.

- b. If a practitioner chooses to use images, they must ensure that they:
  - (i) are solely for the purpose of providing accurate and useful information.
  - (ii) are used only when the patient has given his or her fully informed written consent.
  - (iii) if they are “before and after” images they must also:
    - (1) have not been altered in any way.
    - (2) show a realistic portrayal of the outcome that can reasonably and typically be expected.
    - (3) are consistent with regard to positioning, lighting, camera angle and posture.

### 13. **Promotion by Inducement**

- a. Practitioners may offer an inducement or similar to health consumers, only when:
  - (i) the terms and conditions of that offer are clearly and understandably set out.
  - (ii) the best interests of health consumers are considered when making such an offer.
  - (iii) any offer does not contravene the Code of Health and Disability Services Consumers’ Rights.
  - (iv) in offering goods or services, the practitioner ensures that the product or service is appropriate for that individual and not based on other considerations.
  - (v) although strongly discouraged, if practitioners advertise by means of discount coupons or gift certificates, the practitioner must ensure that these do not undermine their relationship with the patient and the informed consent process. In particular, practitioners must ensure that their coupon or certificate is clear that:
    - (1) purchase of the certificate or coupon does not equate to granting informed consent.
    - (2) prior to treatment the person will have an opportunity to discuss treatment with the practitioner, to ask questions and to provide their informed consent.
    - (3) the person has the right to opt out of treatment at any time.
    - (4) the practitioner will not provide the requested treatment if your assessment indicates that the patient is not a suitable candidate.

### 14. **Media Contact**

- a. Practitioners may be interviewed by name or prepare articles for the lay press on issues of general interest provided that:

- (i) it is made clear that the opinion voiced is that of the practitioner only if this is the case. If the opinion is that of the profession or part of the profession, this should be stated.
- (ii) they do not allow the name, address, or contact details of their practice to be used in an unreasonable manner or be the primary focus of the media contact.
- (iii) they do not make any self-laudatory, misleading, or sensational statements or depreciate the achievements of others.
- (iv) they do not use their involvement solely to attract or gain new patients.
- (v) testimonials of their patients or other persons are not used. This includes ensuring they do not link patient reviews/testimonials directly to practice websites, i.e., patient google reviews.

### **Questions about Advertising:**

If practitioners 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](mailto:anza@anza.co.nz) or on 09 488 7455.

### **Complaints about Advertisements:**

Due to the fact that advertising by its nature, requires that material is in the public domain: any member of the public or profession may make, in writing, a complaint directly to the Board; or a complainant may choose to contact the ASA ([www.asa.co.nz](http://www.asa.co.nz)) or Broadcasting Standards Authority ([www.bsa.govt.nz](http://www.bsa.govt.nz)) directly to make a complaint.

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