

# TAPS | therapeutic advertising pre-vetting service

<b>GUIDELINE 7</b> <b>General</b>	<b>Guideline for Advertising Acupuncture Services</b>
Last Updated	July 2016
What kind of service is this guideline for?	Any Acupuncture Clinic or Acupuncture Practitioner
What is the purpose of this guideline?	To provide advertising compliance guidance for those who wish to advertise their acupuncture services.

## INTRODUCTION

The following guidelines are intended to provide background information and informal guidance on advertising acupuncture services. The Medicines Act 1981 and the Therapeutic Services Advertising Code may apply, along with your own industry's codes.

## KEY POINTS

- When advertising your services you can list conditions as long as you have a suitable source to substantiate that those conditions are in line with the usual purposes for acupuncture.
- You cannot make claims to cure anything. Focus the advertising on the service and list suitable conditions in which acupuncture may be helpful. Do not make claims about the likely outcome of treatment.
- Patients may provide testimonials that relate to the quality of the service they received (e.g. timely, friendly, efficient etc) and they may state the condition for which they sought acupuncture treatment. **However**, patient testimonials that claim successful treatment for any condition may not be used, this would breach section 58 of the Medicines Act 1981. See Section 58 below
- Endorsement by a Health Care Practitioner cannot be used as this would breach Section 58 of the Medicines Act 1981.
- Avoid comparisons with other services or practitioners.
- Sell your service on its own positive merits.

- Do not offer Guarantees.
- Be wary of using the term “Doctor” without qualification, unless you are a NZ Registered Doctor of Medicine. You may quote the overseas qualification as long as it is clear you are not registered to practice medicine in NZ but are a NZ registered acupuncturist.
- Avoid using exaggerated terms like :  
Best / Cheapest / The Only / NZ’s favourite.

## **SUMMARY OF LEGISLATION AND CODES THAT COVER ADVERTISING THERAPEUTIC SERVICES:**

### **Medicines Act 1981**

#### Acupuncture is a Method of Treatment

Defined in the Medicines Act 1981, Section 56 as:

*method of treatment* means any method of treatment for reward undertaken, or represented to be undertaken, for a therapeutic purpose

**This means that all the advertising requirements in the Medicines Act apply when advertising Acupuncture services**

#### What is a Therapeutic Purpose?

Defined in the Medicines Act 1981, Section 4 as:

- (a) Preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury; or
- (b) Influencing, inhibiting, or modifying a physiological process; or
- (c) testing the susceptibility of persons to a disease or ailment; or
- (d) influencing, controlling, or preventing conception; or
- (e) testing for pregnancy; or
- (f) Investigating, replacing, or modifying parts of the human anatomy.

#### What is an advertisement?

Defined in the Medicines Act 1981, Section 56 as:

**advertisement** 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 meanings

**medical advertisement** means an advertisement relating, or likely to cause any person to believe that it relates, to any medicine or medical device or any ingredient or component thereof, **or to any method of treatment**

**publish** means—

- (a) insert in any newspaper or other periodical publication printed or published in New Zealand; or
- (b) send to any person through the Post Office or otherwise; or
- (c) deliver to any person or leave upon premises in the occupation of any person; or
- (d) broadcast within the meaning of the [Broadcasting Act 1989](#); or
- (e) bring to the notice of the public in New Zealand in any other manner.

**Please note, this includes advertising on third party websites and the content of your own website promoting your services.**

#### Restrictions on Advertisements

Defined in the Medicines Act 1981, Section 58 as:

- (1) No person shall publish, or cause or permit to be published, any medical advertisement that—
- (a) directly or by implication claims, indicates, or suggests that medicines of the description, or medical devices of the kind, or the method of treatment, advertised will prevent, alleviate, or cure any disease, or prevent, reduce, or terminate any physiological condition specified, or belonging to a class of disease or physiological condition specified, in [Part 1](#) of Schedule 1 to the Medicines Act; or
  - (b) directly or by implication claims, indicates, or suggests that medicines of the description, or medical devices of the kind, or the method of treatment advertised will prevent or cure any disease, or prevent or terminate any physiological condition specified, or belonging to a class of disease or physiological condition specified, in [Part 2](#) of Schedule 1 of the Medicines Act; or
  - (c) directly or by implication claims, indicates, or suggests that a medicine of the description, or a medical device of the kind, or the method of treatment, advertised—
    - (i) is a panacea or infallible;
    - (ii) is or has been used or recommended by a practitioner, nurse, or pharmacist, or by any other person qualified to provide therapeutic treatment in the course of a profession or occupation and registered under any enactment as a person so qualified, or by a person who is engaged in study or research in relation to any of those professions or occupations or the work performed by persons employed therein; or
    - (iii) has beneficially affected the health of a particular person or class of persons, whether named or unnamed, and whether real or fictitious, referred to in the advertisement.
  - (d) invites correspondence or the sending of hair, blood, urine, or other bodily specimens or photographs for the purposes of diagnosis or treatment concerning any disease or physiological condition.
- (2) Every person commits an offence against this Act who contravenes any of the provisions of subsection (1).

This part of the Act refers to any medicines, medical devices and **methods of treatment** described or referred to in the advertisement.

#### **Important Note**

**Although the Medicines Act defines method of treatment, it does not go so far as to give approval to any method of treatment, except to regulate how a method of treatment is advertised. It is the responsibility of the particular professions to be able to justify what conditions their methods of treatment are reasonably expected to be able to treat. Some have more robust evidence than others, so the individual professions are expected to have robust evidence base that can be verified.**

### **ASA THERAPEUTIC AND HEALTH ADVERTISING CODE**

Advertisements shall adhere to the laws of NZ

Principle 1: Advertisements should observe a High Standard of Social Responsibility particularly as consumers often rely on such products, devices and services for their health and wellbeing.

Principle 2: Advertisements shall be truthful, balanced and not misleading.

Advertisers of Acupuncture Services should read this code in full prior to developing advertisements.

#### **Other ASA Codes may also apply, please check:**

Advertising Code of Ethics

Code for Comparative Advertising

Code for People in Advertising

### **INDUSTRY GUIDANCE**

The New Zealand Register of Acupuncturists website, <http://www.acupuncture.org.nz/> states:

Acupuncture can be used to treat an enormous variety of conditions from sporting injuries to digestive upsets or even the common cold. Anyone from newborns to the elderly can benefit from a course of treatment. Acupuncture is a very safe and effective form of medicine with a history of many thousands of years. It can be used not only for the treatment of conditions or illnesses but also to help keep you well and prevent illness taking hold.

#### **Acupuncture Code of Ethics**

##### **Advertising and the Media**

10.1 Advertising must not bring the profession of Acupuncture or Chinese Medicine into disrepute.

10.2 Members must ensure that all advertisements are accurate to the best of their knowledge and belief.

10.3 Advertising must enable patients or colleagues to make an informed decision about the availability and/or appropriateness of members' services.

10.4 Members must exercise caution when endorsing any particular commercial goods or services.

10.5 Members must not use the NZRA/Acupuncture NZ name in any advertising or promotion of any commercial goods/devices or training program without the express written consent of the NZRA/Acupuncture NZ Council.

10.6 Advertising should not denigrate, belittle or bring into disrepute any other person, profession or treatment.

10.7 When communicating with the media members must not hold themselves out to represent NZRA/Acupuncture NZ, or its position on an issue, unless explicitly authorised by the NZRA/Acupuncture NZ Council to do so.

**Industry Contacts:**

[Acupuncture New Zealand](#)

[New Zealand Acupuncture Standards Authority](#)