



Chinese Medicine Council of New Zealand

Advertising Standard

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Purpose

The purpose of this Standard is to protect members of the public from false, misleading, and deceptive advertising, or the provision of inappropriate or unnecessary services, or the creation of unrealistic expectations and to guide CM (Chinese Medicine) practitioners about the advertising of health-related products and services. This Standard should be read in conjunction with the Council's Advertising Guidance document available on the Council website.

The Council recognises and seeks to give effect to Te Tiriti o Waitangi as the foundational governance document in Aotearoa New Zealand, and affirms the rights of iwi, hapū, and Māori in the shaping and governance of our nation. Te Tiriti o Waitangi also influences our roles and responsibilities as citizens in our community and shapes personal and professional conduct. As such, CM practitioners must embed culturally safe and competent practices into all aspects of clinical practice, including advertising and ensure all advertising demonstrates respect for the cultural beliefs, values, and practices of all tangata whai ora.

The Council recognises the value of providing information to the public about practitioners and the services they provide, and that advertising can provide a means of conveying such information. Any information provided in an advertisement for a service should be reliable and useful in assisting tangata whai ora to make informed decisions about accessing services and health care choices.

The standards set by the Council are minimum standards which are used by the Council, the public of New Zealand, competence review committees, professional conduct committees, the Health and Disability Commissioner, the Health Practitioners Disciplinary Tribunal, and the courts to measure the competence, performance, and conduct of CM practitioners.

Professional Obligations

The following statements apply to all forms of advertising.

The Council's Standards of Professional Conduct states under Principle 1 (Act with integrity and honesty), that CM practitioners will:

- Comply with all legal, professional, and ethical obligations and any other relevant standards, including those in the HPCA Act
- Not exploit the client's vulnerability or lack of knowledge when providing or recommending services
- Comply with national advertising requirements and relevant legislation on consumer protection, fair trading, and therapeutic goods advertising, to ensure ethical promotion of therapeutic products and services, and
- Accurately represent the nature, care and skill of the services or care provided, to comply with legal, professional, ethical, and other relevant standards.

New Zealand Law and Advertising Codes

CM practitioners must be aware of and comply with their obligations regarding therapeutic claims of goods and services under New Zealand legislation and standards relevant to advertising including,

without limitation, the [Fair-trading Act 1986](#), the [Consumer Guarantees Act 1993](#), and the [Code of Health and Disability Services Consumers' Rights](#).

The [Advertising Standards Code](#) and the [Therapeutic and Health Advertising Code](#) published by the Advertising Standards Authority may also be relevant as they provide guidance as to good advertising practice.

Definition of advertising

'Advertising and Advertisement(s)' means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language, and communicated in any medium with the intent to influence the choice, opinion, or behaviour of those to whom it is addressed¹.

'Advertising' therefore means any published information about a CM practitioner's practice, including but not limited to: signage; corporate printing such as business cards, stationery; and social and print media such as websites, blogs, Facebook, Instagram, TikTok, WeChat, LinkedIn; and newspapers.

Advertising and Advertisement(s) are **any message**, the content of which is controlled directly or indirectly by the advertiser, expressed in any language, and **communicated in any medium** with the intent to influence the choice, opinion, or behaviour of those to whom it is addressed.

Advertising may have adverse consequences for the public when it is false, inaccurate, misleading, or deceptive. This may lead to public harm with the provision of inappropriate or unnecessary health services or create unrealistic expectations.

Advertising Principles

Advertising principles relating to CM products and services are defined in the Therapeutic and Health Advertising Code. Restrictions may be applied to any advertisements describing medicines, medical devices, and methods of treatment if they do not abide by these principles.

Definitions of products and services

A therapeutic product is one that is intended to be used by humans for a therapeutic purpose. This includes:

- preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for a disease, ailment, defect, or injury
- testing the susceptibility of humans to a disease or an ailment
- investigating, replacing, modifying, or supporting part of a human's anatomy
- disinfecting medical devices, and
- maintaining health and providing for human nutritional supplementation.

A therapeutic service or method of treatment (such as acupuncture or tuina) is defined as:

- services that offer a method of treatment for a range of medical conditions, OR
- services that offer support for normal healthy body functions.

¹ [THERAPEUTIC-AND-HEALTH-ADVERTISING-CODE.pdf \(asa.co.nz\)](#)

Principle 1: Social Responsibility

Therapeutic and Health advertisements shall 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: Truthful Presentation

Advertisements should be truthful, balanced and not misleading. Advertisements shall not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on consumer fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

Public safety

CM practitioners must not advertise in a manner that could be considered as an attempt to profit from or take advantage of limited understanding of tangata whai ora. Some tangata whai ora 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 the vulnerabilities of tangata whai ora when you advertise.

Informed consent

A decision made by someone in response to an advertisement cannot be considered as their informed consent for the practitioner to provide them with the advertised service.

The Council's informed consent practice standard describes informed consent as an interactive and ongoing process which requires effective communication between the practitioner and the patient.

Practitioners must obtain the patient's informed consent before providing care to the public and ensure it remains valid.

Substantiation of claims

When advertising a service, a CM practitioner must be competent by reason of his or her education, training or experience to provide the service advertised or to act in the manner or professional capacity advertised. A practitioner must be certain that any claims made in advertising material can be substantiated by the best available evidence. This is particularly important in the case of claims regarding outcomes of treatment, whether implied or explicit.

Consequences of breach of advertising requirements

Any real or perceived breach of advertising requirements should be notified to the Council. Where advertising breaches a code or law, the Council may refer complaints to another agency, including the Health and Disability Commissioner, the Commerce Commission, or the Advertising Standards Authority.

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