

Check your advertising:

Chinese medicine examples

December 2017



This document outlines examples of advertising claims that don't meet the legal requirements and how to make them compliant. The Australian Health Practitioner Regulation Agency (AHPRA) and the Chinese Medicine Board of Australia (the Board) are sharing these examples to help you check your own advertising to ensure you comply with your obligations under the National Law¹.

Why the advertising is non-compliant and how the specific examples could be corrected is based on our assessment of advertising complaints we have received for the Chinese medicine profession. To do this we apply the National Law and any further guidance that National Boards and AHPRA publish, including the *Advertising guidelines* and resources on our websites.

The examples below are specific to Chinese medicine practitioners and are some of the most common mistakes we see. We have also published common examples on the AHPRA website, which highlight advertising from various regulated health professions but are still important to help you make your advertising compliant.

Important information

Check if your advertising complies with legal requirements

There are many ways advertisements can be false, misleading or deceptive.

Always be clear about the level of evidence to support a claim. You should not make claims about the effectiveness of the treatment or services you provide if those claims cannot be substantiated with acceptable evidence.

We have published a *Summary of advertising obligations* on our website to help explain the legal requirements for advertising a regulated health service.

You should also refer to the full *Guidelines for advertising regulated health services*.

Advertising by Chinese medicine practitioners often includes therapeutic claims about treatments as well as regulated health services. Where the advertising of treatments mentions a therapeutic good (a medicine or a device), a complaint about the advertising may be referred by AHPRA to the Therapeutic Goods Administration for consideration.

¹ The Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

More about therapeutic claims

Claims in advertising to the public about the treatment of health conditions or the alleviation of symptoms where provision of the information does not involve consultation with a practitioner, need to be supported by up to date, higher level, quantitative clinical evidence.

The Board has issued general advice in a Position Statement and in its newsletter about this. In summary, you should not make claims in advertising about the effectiveness of a treatment or a regulated health service you provide unless those claims can be substantiated with acceptable evidence.

Internationally, scientific research into Chinese medicine is active; however, there are therapeutic areas where there is insufficient higher quality, clinical evidence. Furthermore, the holistic and highly-individualised treatment for patients may not, in fact, be amenable to scientific studies.

Particular points to note are:

- **Substantiating claims** – it is the advertiser's responsibility to be able to support any therapeutic claims they make in advertising with suitable high level, acceptable evidence and to provide this evidence if requested.
- **Distinguish between the disease and the symptoms** – while there currently may be insufficient scientific evidence for advertising the treatment of some diseases, Chinese medicine has an established role helping to manage the symptoms of specific conditions (e.g. pain management related to certain conditions), or supporting the effectiveness of treatments (e.g. IVF); perhaps as part of a multidisciplinary approach. Advertising must be clear whether a treatment claim relates to a disease or to a symptom of a disease or condition.
- **Evidence of traditional use** – while traditional use evidence forms an important part of the evidence for Chinese medicine practice, it is not of the standard required for public advertising where a practitioner consultation is not involved. This form of evidence used alone is not sufficient to support therapeutic claims in advertising.
- **Acceptable evidence for advertising** – needs to be up to date, of a higher level, and be quantitative evidence. Recent complaints about advertising have identified that many Chinese medicine practitioners make claims in their advertising (including on their websites) that are based on a statement previously published in 2003 by the World Health Organisation (WHO) about medical conditions associated with acupuncture. As the WHO document has not been updated for more than five years, the Board's advice to practitioners is that it does not meet the requirements to be acceptable evidence.
- Be careful about using the words '**safe and effective**' in your advertising as they can often be misleading. See the AHPRA website for further tips and information to help you review your advertising.

Examples of non-compliant advertising and how to correct it

These examples highlight non-compliant advertising by Chinese medicine practitioners and/or Chinese medicine practice related websites, Facebook pages, print advertisements and/or advertising by Chinese medicine practitioners or Chinese medicine clinics on third party websites. Practitioners are not responsible for removing (or trying to have removed) unsolicited testimonials published on a website or in social media over which they do not have control. This includes third party sites – unless the practitioner provides the content or authorises it.

Key

● **Text in green** means this content is okay and is unlikely to mislead consumers.

● **Text in orange** means it can depend. If you have provided the appropriate context and clarification in your advertising, it is unlikely to be misleading to consumers.

● **Text in red** means this advertising is in breach of the legal requirements, and you should remove it from your advertising.

Advertising content

Acupuncture and herbs are both an integral part of TCM, **which has been proven to be a very safe and effective healthcare modality in Australia.**

TCM: Traditional Chinese medicine

Why it is non-compliant

This advertising is considered misleading and deceptive.

Parts of this advertising are unqualified and/or are not supported by acceptable evidence and therefore may mislead consumers.

Changes that would help this advertising to comply

It is potentially misleading to state or infer that a Chinese medicine treatment or a particular approach is safe without also acknowledging that individuals respond differently and all forms of treatment have the potential for adverse events. Advertising about Chinese medicine treatment should not imply that a treatment or service cannot cause harm or have no adverse effects.

Generalisations about Chinese medicine being effective are also often misleading and risk inferring an unreasonable expectation of benefit.

This statement could be corrected to read:

Acupuncture and herbs are both an integral part of Chinese medicine practice, which may help patients to manage a range of symptoms including pain, stress and fatigue.

Chinese medicine is generally considered to be safe but occasionally (as with all health treatments) may be associated with possible adverse reactions in individual cases.

The advertising could also include further information about Chinese medicine theory, such as:

Chinese medicine is a system of medicine developed in China that has a different history and approach than Western medicine. Rather than treating disease, a Chinese medicine practitioner treats patterns of disharmony (or symptom clusters) in a patient.

Chinese medicine treatment can assist with:

- **Autoimmune disorders**
- **Chronic disease**
- **Support for cancer treatment**

This advertising is considered misleading and deceptive.

Referring to very broad health areas without explaining specifically where and how Chinese medicine can help may mislead consumers and create unreasonable expectations. Clearly there will not be acceptable evidence to cover the full spectrum of a set of conditions such as autoimmune disorders.

Advertising must be supported by acceptable evidence. For example, the evidence may support the treatment of symptoms or a specific disease.

The example could be rectified by advising that:

Chinese medicine treatment may be able to assist with:

- **Management of pain, stress and fatigue related to some autoimmune disorders, in consultation with other treating health practitioners**
- **Management of pain, fatigue and nausea related to many chronic diseases**
- **Management of vomiting or nausea arising from chemotherapy**

Pay particular attention to:

- the use of a list of broad health conditions in advertising as this is false and misleading, and
- distinguishing in the advertising between whether the claim is for the treatment of a disease or a symptom associated with the disease.

Examples of non-compliant advertising and how to correct it

These examples highlight non-compliant advertising by Chinese medicine practitioners and/or Chinese medicine practice related websites, Facebook pages, print advertisements and/or advertising by Chinese medicine practitioners or Chinese medicine clinics on third party websites. Practitioners are not responsible for removing (or trying to have removed) unsolicited testimonials published on a website or in social media over which they do not have control. This includes third party sites – unless the practitioner provides the content or authorises it.

Key

● **Text in green** means this content is okay and is unlikely to mislead consumers.

● **Text in orange** means it can depend. If you have provided the appropriate context and clarification in your advertising, it is unlikely to be misleading to consumers.

● **Text in red** means this advertising is in breach of the legal requirements, and you should remove it from your advertising.

Advertising content

Chinese medicine treatment can help with:

- **Pain relief and management**
- **Stress**
- **Depression**
- **Bipolar disorder**
- **Multiple Sclerosis (MS)**
- **Hashimoto Thyroiditis**

Why it is non-compliant

This advertising is considered false and misleading.

Parts of this advertising are unqualified and/or are not supported by acceptable evidence and therefore are false and would mislead consumers.

Changes that would help this advertising to comply

Pain and stress are both symptoms that are often managed by Chinese medicine practitioners. As these are symptoms, rather than specific health conditions, including these in advertising is unlikely to mislead consumers.

Acupuncture may assist with pain management and may be able to assist with depression that is related to chronic pain by managing the underlying pain, rather than treating the depression itself. If you make this clear in your advertising then you will be unlikely to mislead consumers.

This statement could be corrected to read:

Chinese medicine treatment can help with:

- **Pain relief and management**
- **Stress**
- **Chronic pain related to depression by managing the underlying chronic pain**

Pay particular attention to:

- the use of a list of health conditions in advertising as this increases the likelihood that there will not be suitable supporting evidence and, therefore, is often false and misleading.

Acupuncture **can assist with infertility, and can also be used to help support other fertility treatments**

This advertising is considered misleading and deceptive.

Parts of this advertising are unqualified and/or are not supported by acceptable evidence and therefore may mislead consumers.

Many Chinese medicine practitioners make treatment claims relating to fertility. For the purposes of advertising there is insufficient evidence that Chinese medicine can effectively treat infertility or improve fertility, therefore it's not appropriate to make claims about this in advertising.

In relation to a claim about supporting infertility treatment, this may be appropriate to include in advertising with the appropriate context.

There is some research evidence that Chinese medicine treatment may assist in supporting specific fertility treatments such as IVF, and there is also broad agreement by Chinese medicine practitioners and other health practitioners about acupuncture as an adjunct treatment for IVF. If this is made clear in your advertising that this is the case then you will be unlikely to mislead consumers.

This statement could be corrected to read:

Many health practitioners may recommend acupuncture as an adjunct treatment that may assist with IVF treatment. There is continuing research about how acupuncture can assist with the effectiveness of IVF treatment and you should consult your treating practitioner/s about how acupuncture may be able to help you.

Examples of non-compliant advertising and how to correct it

These examples highlight non-compliant advertising by Chinese medicine practitioners and/or Chinese medicine practice related websites, Facebook pages, print advertisements and/or advertising by Chinese medicine practitioners or Chinese medicine clinics on third party websites. Practitioners are not responsible for removing (or trying to have removed) unsolicited testimonials published on a website or in social media over which they do not have control. This includes third party sites – unless the practitioner provides the content or authorises it.

Key

● **Text in green** means this content is okay and is unlikely to mislead consumers.

● **Text in orange** means it can depend. If you have provided the appropriate context and clarification in your advertising, it is unlikely to be misleading to consumers.

● **Text in red** means this advertising is in breach of the legal requirements, and you should remove it from your advertising.

Advertising content

Are you pregnant?
Acupuncture can help pregnant women with:

- **Pregnancy related aches and pains**
- **Nausea and vomiting**
- **Preventing miscarriage**
- **Lowering the chance of caesarean section**
- **Correcting breech position using acupuncture and moxibustion**

Why it is non-compliant

This advertising is considered misleading and deceptive.

Parts of this advertising are not supported by acceptable evidence and therefore may mislead consumers.

Changes that would help this advertising to comply

There is insufficient scientific evidence to be able to make advertising claims that acupuncture or Chinese medicine treatment can treat the conditions listed in **red**.

The Board is particularly concerned about these types of claims in advertising given they refer to significant medical events.

This statement could be corrected to read:

Are you pregnant? Chinese medicine treatment may be able to help pregnant women with:

- **Pregnancy related musculoskeletal pains**
- **Nausea and vomiting**

Pay particular attention to:

- the use of a list of health conditions in advertising as this is often misleading, and
- being clear in the advertising whether the claim, supported by suitable evidence, is for the treatment of a condition or a symptom associated with the condition.

Our practice includes Dr Jane Li (Chinese medicine practitioner), **who specialises in fertility treatment.**

This advertising is considered misleading and deceptive as it includes claims about specialising.

Chinese medicine practitioners cannot use the term 'specialist' when referring to their practice or registration in their advertising or any other materials.

'Specialist' is a category of registration under the National Law. However, there are no recognised specialist categories in the Chinese medicine profession. Even if you have extensive training and experience, you cannot give the impression or advertise that you specialise or are a specialist.

This advertising would need to be corrected by removing the reference to specialising in fertility.

Instead, Dr Li could say:

I have a particular interest in working with patients with fertility issues.

Pay particular attention to:

- the use of the word 'specialist' is restricted under the National Law
- the fact that specialist registration applies to only a small number of health professions, and
- Chinese medicine practitioners can only apply for general registration and cannot use the word specialist.

Examples of non-compliant advertising and how to correct it

These examples highlight non-compliant advertising by Chinese medicine practitioners and/or Chinese medicine practice related websites, Facebook pages, print advertisements and/or advertising by Chinese medicine practitioners or Chinese medicine clinics on third party websites. Practitioners are not responsible for removing (or trying to have removed) unsolicited testimonials published on a website or in social media over which they do not have control. This includes third party sites – unless the practitioner provides the content or authorises it.

Key

● **Text in green** means this content is okay and is unlikely to mislead consumers.

● **Text in orange** means it can depend. If you have provided the appropriate context and clarification in your advertising, it is unlikely to be misleading to consumers.

● **Text in red** means this advertising is in breach of the legal requirements, and you should remove it from your advertising.

Advertising content

Jack, 47, is one of our many patients who experienced great results with Chinese medicine treatment. He says: 'All the acupuncturists at this clinic are great and so are the results. My chronic back pain is much improved after only five sessions'.

Sara, 35, says: 'The practice is in a great spot so parking isn't a problem. The staff are lovely and I have been going there for many years'.

Why it is non-compliant

This advertising is clearly a testimonial.

Testimonials or purported testimonials are prohibited under the National Law when advertising regulated health services.

Changes that would help this advertising to comply

The testimonial in **red** is about clinical services and is a serious breach of the National Law. The statement in **green** is acceptable as it does not refer to clinical care.

Pay particular attention to:

- testimonials (real or fake) which can be misleading for consumers, particularly about clinical care or regulated health services. If you're unsure about whether or not the feedback relates to clinical care or services, it's best to seek advice or leave it out.

Disclaimer: The information used in these examples is for guidance only. If, after reviewing the examples listed, you are still unsure if your advertising complies with the National Law we recommend you seek advice from your professional association, insurer and/or independent legal adviser.

Take steps now to check and correct your advertising so you comply.

Helpful resources are on our website at www.ahpra.gov.au/advertising.