



Aboriginal and Torres Strait  
Islander Health Practice  
Chinese Medicine  
Chiropractic  
Dental  
Medical  
Medical Radiation Practice  
Nursing and Midwifery  
Occupational Therapy  
Optometry  
Osteopathy  
Pharmacy  
Physiotherapy  
Podiatry  
Psychology

Australian Health Practitioner Regulation Agency

## Response template: Public consultation - revised *Guidelines for advertising regulated health services*

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National Boards and the Australian Health Practitioner Regulation Agency (AHPRA) are seeking feedback about the revised *Guidelines for advertising regulated health services*.

This response template is an alternative to providing your response through the online platform available on the consultation [website](#).

### IMPORTANT INFORMATION

#### Privacy

Your response will be anonymous unless you choose to provide your name and/or the name of your organisation.

The information collected will be used by AHPRA to evaluate the revised guidelines. The information will be handled in accordance with AHPRA's privacy policy available [here](#).

#### Publication of responses

Published responses will include the name (if provided) of the individual and/or the organisation that made the response.

You must let us know if you do **not** want us to publish your response.

Please see the [public consultation papers](#) for more information about publication of responses.

#### Submitting your response

Please send your response to: [AHPRA.consultation@ahpra.gov.au](mailto:AHPRA.consultation@ahpra.gov.au)

Please use the subject line: Feedback on guidelines for advertising regulated health services

Responses are due by: **26 November 2019**



## Public consultation questions

Please ensure you have read the [public consultation papers](#) before providing feedback as the questions are specific to the revised Guidelines for advertising regulated health services.

Use the corresponding text boxes to provide your responses. You do not need to answer every question if you have no comment.

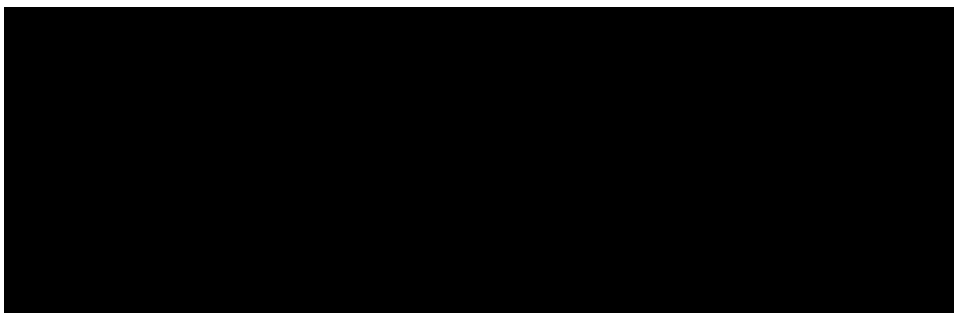
<b>1. How clear are the revised guidelines?</b>
<p>Overall, the change in structure and language used helps to improve clarity and readability of the guidelines. The addition of a summary at the front of the document is also helpful.</p> <p>PSA supports Option 2 to publish revised guidelines but requests consideration of the comments provided below.</p>
<b>2. How relevant is the content of the revised guidelines?</b>
<b>3. Please describe any content that needs to be changed or deleted in the revised guidelines.</b>
<p><b>Section 3.2</b></p> <ul style="list-style-type: none"><li>• In this section, should “non-registered practitioners” read “non-registered health practitioners”?</li><li>• Also, in the context used, it is unclear whether a “non-registered practitioner” might also mean a non-registrable person, or a registrable person who is not registered.</li><li>• The definition of a “regulated health service” provided here (p. 7) is inconsistent with the definition listed in the current guidelines and the revised guidelines (p. 17).</li><li>• In addition, the last dot point (on p. 7) is concerning as it seems to suggest that a regulated health service which is usually provided by a registered health practitioner could also be provided by a non-registered practitioner. To clarify this scenario, some examples should be provided.</li></ul> <p><b>Section 4.2 Gifts, discounts or inducements</b></p> <p>Inclusion of examples relevant to pharmacists would be helpful here.</p> <p><b>Section between headings 4.3 and 4.3.1</b></p> <p>The legislation cited essentially states that testimonials cannot be used when advertising a health service. The subsequent paragraph then talks about “the risk of harm posed by the use of testimonials in advertising is greatest where...” and lists bullet points. This text appears to justify the restriction on using testimonials, however, it does not belong here in the guidelines (at least not in the present form).</p>

### Section 4.3 Testimonials

In reviewing the section on testimonials, PSA considered several aspects to help understand how a pharmacist may interpret a situation and how they should deal with advertising-related scenarios.

- A pharmacist may advertise a health service through the “About” information section of a pharmacy’s Facebook page. A member of the public may then post a comment saying “I’ve received the (advertised) service XYZ at this pharmacy and it was great!!”. In this case, the pharmacist has not used that testimonial to advertise the service but the posted comment (testimonial) is now associated with the advertisement. What is the appropriate course of action for the pharmacist?
- The following pharmacy Facebook post might be regarded to be acceptable (i.e. not a testimonial) as it does not specifically reference any symptom, intervention or outcome. However, footnote 9 of the draft guidelines states that “practitioner-patient communication is considered a clinical aspect of care”. What is the correct interpretation (and any necessary action by the pharmacist) under the National Law?

**(Please redact the following image before publishing this submission on the AHPRA website.)**



- The post below makes reference to clinical aspects of care (“burnt fingers”) so this, presumably, would be classified as a testimonial. However the comment overall is not likely to “pose a risk to the public” (as referenced in the table under section 4.3.3). What is the appropriate course of action for the pharmacist?

**(Please redact the following image before publishing this submission on the AHPRA website.)**



- Would a posted comment, “Bought *Panadol* here and it fixed my headache” be regarded as a testimonial? There is mention of a symptom, intervention (inferred) and outcome. Dealing with this type of comment can be subjective since the regulated health service could be ‘the interaction with the pharmacist’ but could also be ‘any medicine purchase from the pharmacy’.

- In order to comply with National Law requirements, pharmacists may consider any comment posted on pharmacy social media pages that mentions medicines or symptoms to be a testimonial, and potentially remove all such posts. However, a simple search will show that there is a plethora of the type of posts shown in this submission making removal of posts a considerable task. Further, due to the lack of public knowledge about these regulations, removal of positive or negative posts by the pharmacist could be viewed by consumers as 'censorship', most likely leading to frustration and annoyance. This also has the potential to adversely impact on pharmacists' reputation.
- PSA also believes that the practice of removing online testimonials requires careful consideration in the context of the *Competition and Consumer Act 2010*. The selective removal of testimonials may result in misleading conduct as referred by the Australian Competition and Consumer Commission.
- Finally, another relevant consideration is that the *Therapeutic Goods Advertising Code* does allow for testimonials (with certain details verified), although clearly in relation to the advertising of therapeutic goods. While the National Law does not regulate therapeutic goods, pharmacy practice and health services delivered by pharmacists are so intimately associated with therapeutic goods that PSA strongly believes clear advice specifically for pharmacists around the context and application of the AHPRA guidelines is warranted.
- **Thus, PSA would welcome the opportunity to work with AHPRA and the Pharmacy Board of Australia to develop a separate or accompanying guidance document or resource to better support pharmacists in the advertising of regulated health services given their unique practice circumstances.**

#### Appendixes

The proposed removal of several appendixes as outlined is appropriate.

**4. Should some of the content be moved out of the revised guidelines to be published in the advertising resources section of the AHPRA website instead?**

**If yes, please describe what should be moved and your reasons why.**

**5. How helpful is the structure of the revised guidelines?**

**6. Are the flow charts and diagrams helpful?**

**Please explain your answer.**

The flowcharts are not unhelpful but do not necessarily provide value given the decision making pathway and questions are not complex. It is acknowledged, however, that some readers may prefer the diagrammatic presentation.

**7. Is there anything that needs to be added to the revised guidelines?**

PSA suggests the inclusion of a consolidated summary of examples of both compliant and non-compliant practices. There are examples interspersed throughout the guidelines but they are generally difficult to locate. For the pharmacy profession, PSA also suggests the inclusion of cases and examples relevant to pharmacists.

Refer also to comments above (under Testimonials) regarding the need for separate practical guidance for pharmacists (particularly in community pharmacy settings).

**8. It is proposed that the guidelines will be reviewed every five years, or earlier if required.**

**Is this reasonable?**

**Please explain your answer.**

PSA believes a five-yearly review “or earlier if required” is appropriate provided the currency and appropriateness of the guidelines are actively monitored.

**9. Please describe anything else the National Boards should consider in the review of the guidelines.**

**10. Please add any other comments or suggestions for the revised guidelines.**

## Thank you!

**Thank you for participating in the consultation.**

Your answers will be used by the National Boards and AHPRA to improve the Guidelines for advertising regulated health services.