



## Advertising Guidelines

When advertising or promoting any medicine, complementary therapy, herbal remedy, service or intervention or other healthcare product, pharmacists are expected to exercise professional judgement in order to maintain the professional image of pharmacy. This applies to all advertisements or promotions including those via the internet.

These guidelines cover all advertisements, whether on the pharmacy's own website, via other online media or any other media, and includes in-store promotions. There is a range of legal requirements, codes and practice standards (listed at the end of this guidance) that pharmacists must comply with when promoting or advertising services or medicines. Furthermore, when supplying medicines via the internet, pharmacists have professional and ethical obligations that extend beyond these minimum legal requirements.

### Council Statement November 2017

The Pharmacy Council is aware that the *Advertising Guidelines* have been interpreted by some people to exclude a prohibition on comparative advertisements relating to prescription charges and prescription co-payments. While these are matters that will be considered carefully as part of the development of an Advertising Statement in 2018, pending the development and finalisation of that Statement, the Pharmacy Council would like to make its interpretation of the *Advertising Guidelines* clear to pharmacists.

The Pharmacy Council's position is that the restrictions on advertising set out in the *Advertising Guidelines* do not prevent advertising of lower prescription charges or zero charges. However, the Pharmacy Council's position is that the *Advertising Guidelines* do include a prohibition on the advertising of comparative pricing of prescription charges and prescription co-payments as well as pharmacy or pharmacist services. This amendment has been incorporated into point 12.

### Council statement April 2018

The Pharmacy Council Code of Ethics was effective from 12 March 2018 and this must be read in conjunction with the joint Advertising guidelines. When the guidelines are reviewed later this year, references to the new Code of Ethics will be incorporated.

## General Principles

1. The pharmacy owner and any other 'responsible person' who is named on the pharmacy licence must be responsible for the form and content of any promotion or advertisement whether placed by them personally, or by another staff member or by another organisation on behalf of the pharmacy.
2. Where the promotion or advertising material is developed by an organisation on behalf of its members, it is anticipated the practice standards pharmacist or similar takes responsibility to ensure these guidelines are followed.

3. All advertisements for prescription, pharmacist-only or pharmacy-only medicines must include the mandatory information relevant to the medicine's classification. Additional requirements apply to internet, mail order and direct marketing advertisements.
4. Promotions and advertisements must not undermine or otherwise criticise the services offered by another pharmacy or pharmacist.
5. Advertisements for services or medicines must be factual and accurate. They must not make any claim not capable of substantiation so as not to abuse the trust of, or exploit the lack of knowledge of, or mislead or deceive, the public. Claims for medicines should always be consistent with the approved label or datasheet.
6. Promotional methods must not encourage the public to equate medicines with ordinary articles of commerce. The emphasis or focus of the advertisement must be on the benefits of the product or service rather than its price.
7. Health claims for complementary therapies or herbal remedies must be able to be substantiated and must not breach the Medicines Act with regard to therapeutic purpose.
8. When promoting or selling complementary and alternative medicines, a pharmacist should have a basic knowledge of the products in order to engage with and advise consumers appropriately, and to assist them in making informed decisions. This should include knowledge about any safety issues and interactions with medicines. Please refer to the Pharmacy Council [CAM statement](#) for further information and Council protocols.
9. When medicines are advertised via a pharmacy website or other internet site, the standard of advice and service available must be of the same level to that which would be received by a patient consulting directly with the pharmacist. A pharmacist must be clearly identified so consumers can contact them if necessary. This applies particularly to Pharmacist Only Medicines which are counter prescribed and where there are professional advice and recording requirements.
10. Where the Pharmacy Council has prescribed a protocol for the sale or supply of a medicine or a group of medicines, the pharmacist should comply with the protocol, for example the protocol for the Sale or Supply of Pharmacist-Only Medicines for Chronic Conditions (POMCC).
11. Regardless of any promotional scheme the pharmacist must only promote or sell quantities appropriate to the clinical needs of the patient. This includes products intended for a limited course of treatment e.g. nasal decongestant preparations.
12. Comparative pricing of medicines, pharmacy services or prescription charges, including prescription co-payments is not permitted. It is acceptable for an advertisement to display the selling price or to state "our price" but not "was \$xx", "elsewhere \$xx" or "normal price" or "30% reduction" or discount on normal price as a comparison.
13. Advertisements and promotions must not encourage or be likely to encourage customers to purchase inappropriate or excessive quantities of a medicine. This would typically include "multi- buy" offers, competitions or price promotions such as:
  - 13.1 buy two for the price of one, or
  - 13.2 buy one and get another medicine free or for a reduced price, or

13.3 buy one medicine and get a free item, or

13.4 where a medicine must be purchased as a condition of entry to a competition.

### **Advertising medicines of potential misuse<sup>1</sup>**

14. Medicines of potential misuse should not be displayed in any situation where staff cannot supervise selection of the medicine i.e. avoid the use of 'fish bowls' or displays where customers can self-select.
15. Do not use dominant price stars. The price type should be no bigger than the type used for the product benefit or approved purpose.
16. No incentives may be offered to purchase additional quantities.
17. Special price coupons are not acceptable.
18. Only smaller pack sizes should be advertised.
19. Avoid competitions, associated special offers or gifts with purchase, even if no purchase is necessary.
20. Company-sponsored window display competitions for staff must not be used for medicines of potential misuse.
21. Medicines of potential abuse, misuse and dependence such as those containing codeine should not be available for any sale via the internet because of the difficulty in ascertaining whether the purchaser is genuine and because of the difficulty of monitoring sales.
22. Codeine and other medicines of potential abuse should never be offered for sale outside NZ. Classification of these medicines may differ overseas and in such cases pharmacists who provide these medicines may be unknowingly assisting in the commission of an offence against the legal requirements of another country.

### **Promotions and advertising may contravene legislation and codes if they:**

23. Advertise time-limited offers which influence a consumer to make decisions under the pressure of time and money rather than about their health care needs. An offer is considered time-limited if it is offered for purchase for a contracted, unusually short period of time e.g. 24 – 48 hours;
24. Use promotional techniques that are likely to encourage consumers to purchase medicines or to use health services regardless of clinical need or therapeutic benefit, such as offers or discounts, online/internet deals, vouchers, and/or coupons; and/or promote inappropriate or excessive use or purchase of a medicine.
25. Use prizes, bonuses, bulk purchases, bulk discounts or other endorsements to encourage unnecessary purchases or consumption that are unrelated to clinical need or therapeutic benefit.

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<sup>1</sup> Examples of medicines of potential misuse/abuse include cyclizine; codeine containing analgesics; laxatives; sedating antihistamines; loperamide; Gees linctus.

## Complaints

26. Any complaint made by a member of the public, or by another health practitioner regarding the practice of a pharmacist with respect to medicine advertising can be made to the Pharmacy Council. Any such case would be considered on its own merits and may result in the Council investigating the matter or referring it to the Health and Disability Commissioner or to a professional conduct committee.

### **Original 2014 guidelines prepared jointly by Society and Council:**

#### **Legislation, regulations, codes, standards and statements that must be considered when advertising.**

1. Advertising Standards Authority (ASA)<sup>2</sup> Therapeutic Services Advertising Code,
2. Advertising Standards Authority (ASA) Therapeutic Products Advertising Code,
3. Code of Health and Disability Services Consumers' Rights,
4. Fair Trading Act 1986,
5. Consumer Guarantees Act 1993,
6. Medicines Act 1981<sup>3</sup>
7. Medicines Regulations 1984,
8. Misuse of Drugs Regulations 1977,
9. NZS 8134.7:2010 Pharmacy Services Standards (Standard 3.9),
10. Pharmacy Council Statement *Promotion and Supply of Medicines over the Internet*,
11. NZ Self Medication Industry (NZSMI) Code of Practice, and
12. Dietary Supplements Regulations 1985.

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<sup>2</sup> ASA Codes impose a high standard of social responsibility and in interpreting them emphasis is placed on the principles and the spirit of the Codes

<sup>3</sup> The Medicines Act 1981 (the Act), the Medicines Regulations 1984 (the Regulations) and the Misuse of Drugs Regulations 1977 contain specific provisions relating to advertisements for products (medicines, medical devices, related products, and controlled drugs used as medicines) and methods of treatment.