



Australian Hypnotherapists Association

Advertising and Business Guidelines for Members

1. Introduction

These guidelines for advertising of hypnotherapy and associated services (the guidelines) have been developed by the National Committee in line with Section 39 of the *Health Practitioner Regulation National Law 2009* (the National Law). In particular, Section. 133 of the National Law:

states that a practitioner must not advertise a health service, or a business that provides a health service, in a way that —

- a) is false, misleading or deceptive or is likely to be misleading or deceptive; or
- b) offers a gift, discount, or other inducement to attract a person to use the service or the business, unless the advertisement also sets out the terms and conditions of the offer; or
- c) offers a guarantee of a specific outcome; or
- d) creates an unreasonable expectation of beneficial treatment; or
- e) directly or indirectly encourages the indiscriminate or unnecessary use of health services.

2. Who needs to use these guidelines?

These guidelines are based on the National Law and State Fair Trading Laws and apply to all AHA members who provide or operate a business that provides hypnotherapy services.



3. Advertising of services

The National Law does not contain a definition of 'advertising'. Therefore, for the purposes of these guidelines, advertising includes but is not limited to all forms of printed and electronic media, and includes any public communication using television, radio, motion pictures, newspapers, billboards, books, lists, pictorial representations, designs, mobile communications or other displays, the Internet or directories, and includes business cards, announcement cards, office signs, letterhead, telephone directory listings, professional lists, professional directory listings and similar professional notices.

Advertising also includes situations in which members make themselves available or provide information for media reports, magazine articles or advertorials, including where members make comment or provide information on particular products or services, or particular practitioners.

This definition excludes material issued to clients during consultations where such material is designed to provide the person with clinical or technical information about health conditions or psychological procedures, and where the person is afforded sufficient opportunity to discuss and ask questions about the material.

4. Legislation

4.1 *Trade Practices Act 1974 (Cwlth)*

Under federal law, the *Trade Practices Act 1974 (Cwlth)* permits advertising unless it is misleading or deceptive or likely to mislead or deceive.

The Australian Competition and Consumer Commission (ACCC) takes action against persons who make false or misleading claims about their products or services, and profit from the desire of vulnerable people to change their appearance or improve their wellbeing.

Members should become familiar with the *Trade Practices Act 1974 (Cwlth)*. Members are also referred to the publication *Fair treatment: Guide to the Trade Practices Act for the advertising or promotion of medical and health services* (Commonwealth of Australia, July 2000). This publication can be accessed on the ACCC's website at <http://www.accc.gov.au>.

4.2 *Fair Trading Legislation*

As well as becoming familiar with relevant Commonwealth trade practices legislation, members should also become familiar with the provisions of relevant State and Territory



fair trading legislation that apply to unincorporated persons. The relevant Acts are:

- *Fair Trading Act 1992 (ACT)*
- *Trading Act 1987 (NSW)*
- *Consumer Affairs and Fair Trading Act (NT)*
- *Fair Trading Act 1989 (Qld)*
- *Fair Trading Act 1987 (SA)*
- *Fair Trading Act 1990 (Tas)*
- *Fair Trading Act 1999 (Vic)*
- *Fair Trading Act 1987 (WA)*

The sections most relevant to advertising are those that address:

- unconscionable conduct
- misleading or deceptive conduct and false representations

These provisions mirror those contained in the *Trade Practices Act 1974* (Cwlth). The fair trading legislation refers to the substantiation of claims, unconscionable conduct, and misleading and deceptive conduct, including false representation in relation to goods and services. The relevant consumer affairs departments publish brochures with information regarding the advertising of services and penalties for breaches of the fair trading legislation.

5. Professional obligations

Members should always consider their professional ethical obligations and their legal obligations when advertising services. Members who advertise services should always be aware that consumers of hypnotherapy services may not be in a position to judge the merits of advertised services and products, and that they are more likely to hold a hypnotherapist, as a health provider, in some esteem making them more vulnerable to believing the advertising claims.

Members should not advertise in a manner that could be considered as attempting to profit from or take advantage of limited consumer understanding of any professional services.

5.1 Ensuring competence

When advertising their services, a member must ensure that he or she is competent by reason of his or her education, training and/or experience to provide the service advertised, or to act in the manner or professional capacity advertised.



5.2 Professional qualifications

Members must state clearly their professional qualifications. Credentials and a member's expertise in a particular field should be clear to the public. A member who does not hold specialist qualifications recognised by the association or the government, or an endorsement recognised by the association or the government, must not claim or hold himself or herself out to be a specialist, either explicitly or by implication, or attempt to convey that perception to the public. See Section 9, 'Advertising of qualifications and titles'.

5.3 Substantiation of claims

Members must be certain that they can substantiate any claims made in advertising material, particularly in relation to outcomes of treatment, whether implied or explicitly stated.

5.4 Authorising the content of advertising

Members are responsible for the style and content of all advertising material associated with the provision of their goods and services. Members may not delegate accountability for ensuring the accuracy of advertising and compliance with these guidelines to an administrator, manager, director, media or advertising agency, or other person.

5.5 Informed consent

The main purpose of advertising of hypnotherapy services is to present information that is reasonably needed by consumers to make an informed initial decision about the availability and suitability of the services offered. Any initial decision by a consumer in response to an advertised service does not substitute for gaining informed consent and does not remove the obligation of a member to obtain informed consent before proceeding to provide the service.

6. What is acceptable advertising?

Advertising used to inform the public of the availability of hypnotherapy services may be considered to comply with these guidelines if it is information published in the public interest, and is factual, honest, accurate, clear, verifiable and not misleading. This section is intended to provide examples of the type of advertising of services that the Australian Hypnotherapists' Association (AHA) and the National Hypnotherapists Register of Australia (NHRA) consider to be acceptable. These examples are not intended to be exhaustive.



As such, advertising may contain:

- (a) a factual and clear statement of the services and/or products offered
- (b) contact details of the office of the practitioner including phone numbers, email address and website addresses if appropriate
- (c) a statement of office hours and availability of after hours appointments
- (d) non-enhanced photos or drawings of the practitioner and/or the workplace
- (e) advice on the availability of wheelchair access to any premises
- (f) a statement of any language(s) other than English spoken by the practitioner
- (g) a statement about fees charged and any applicable insurance rebates
- (h) a statement of the names of schools and training programs from which the practitioner has graduated and has received qualifications
- (i) a statement of memberships and accreditation that the practitioner may hold

7. What is unacceptable advertising

This section is intended to provide a clear indication of the type of advertising of services that the AHA and NHRA considers to be unacceptable. Where examples are provided, they are intended to assist members who advertise their services to comply with the advertising provisions of the National and State laws. They are not intended to be exhaustive.

The advertising of services must not:

- (a) create or be likely to create unwarranted and unrealistic expectations about the effectiveness of the services advertised
- (b) mislead, either directly, or by implication, comparison, contrast or omission
- (c) claim that the services provided by a particular health profession are better, as safe as or safer than others
- (d) contain language that could cause undue fear or distress



(e) contain price information that is inexact, or fails to specify any conditions or variables to an advertised price

(f) contain any claim, statement or implication that:

- either expressly, or by omission, that the treatment is infallible, unfailing, magical, miraculous, guaranteed or a certain or sure cure
- a practitioner member has an exclusive or unique skill or remedy
- a practitioner member provides superior services to those provided by other hypnotherapists, members or health practitioners
- the results of the health hypnotherapy service offered are always effective

(g) be vulgar, sensational, contrary to accepted standards of propriety or likely to bring the hypnotherapy profession into disrepute, for example, because it is sexist advertising.

8. Comparative advertising

It is difficult to include all required information to avoid a false or inaccurate comparison when comparing one health service or product with another. Therefore, comparative advertising is at risk of misleading the public. If members use any form of comparative advertising, members must not:

- make unsubstantiated claims, or
- deride or otherwise criticise the services or products offered by another practitioner, or
- make sensational statements that cannot be corroborated

9. Use of titles in advertising

Members should avoid developing abbreviations of protected titles as these may be confusing.

While there is no provision in the *National Law* that prohibits a practitioner from using titles such as 'doctor' or 'professor', members who have been awarded a Doctorate degree or PhD and who are not registered medical practitioners should make it clear in their advertising that they do not hold registration as medical practitioners.

10. Other qualifications and memberships

Advertising qualifications or memberships may be useful in providing the public with information about experience and expertise, but may also be misleading or deceptive if



clients can interpret the advertisements readily to imply that the member is more skilled or has greater experience than is the case.

11. Advertising price information

It is generally difficult to provide an accurate price for hypnotherapy services in an advertisement due to the personal nature of such services and the number of variables involved in the treatment of each person.

Information in advertising the price of services must be clear and not misleading. If fees and price information are to be advertised, then price information should be exact, with all fees for services clearly identifiable and any conditions to an advertised price or fee disclosed.

Members who advertise services must not use phrases like 'lowest prices', or similar words or phrases when advertising fees for services, prices for products or price information, or state an instalment amount without stating the total cost of any service.

11. Use of scientific information in advertising

The Association encourages caution when using scientific information in advertising. When a member chooses to use such information, it should:

- be presented in a manner that is accurate, balanced and not misleading
- use terminology that is understood readily by the audience to whom it is directed
- identify clearly the relevant researchers, sponsors and the academic publication in which the results appear
- clearly identify the source