



POSITION STATEMENT

Advertising of Professional Pharmacy Products and Regulated Health Services

Position

The Pharmacy Guild of Australia (Guild) supports the responsible advertising and promotion of professional pharmacy products and regulated health services. Professional pharmacy products comprise of a broad range of therapeutic goods¹, including medicines (prescription, over-the-counter and complementary) and medical devices. Consumers have a right to make an informed choice about professional pharmacy products and services to assist with their health and lifestyle. Healthcare personnel such as pharmacists and pharmacy assistants must be informed about the professional products and services they offer in order to provide consumers with quality advice and service. The Guild supports information about professional pharmacy products and services being provided to consumers and healthcare personnel, on the condition that it is current, accurate, evidence-based and does not promote excessive or inappropriate use.

The Guild supports the community pharmacist's right to determine the range of products they supply and accept commercially favourable terms of trade. In so doing, the Guild believes such decisions should be evidenced-based and focused on the needs of the community. This is one of the fundamental reasons for the need of a community pharmacy being owned by a pharmacist wherein the decisions to stock certain products are not influenced. Unlike general retailers, pharmacists have ethical as well as legal responsibilities with regards to advertising activities, which are administered by the relevant registration authority. Within community pharmacy, professional self-regulation is also managed through the Quality Care Pharmacy Program (QCPP)² via the application of the Australian Standard for community pharmacy practice³ which has a dedicated element for advertising and promotion that is subject to continual review.

The Guild believes that advertising does not (in some cases) lead to excessive levels of consumption where an advertising follows the Therapeutic Goods Advertising Code. It is in the community's interest not to advertise or promote the use of therapeutic goods (medicines and medical devices) to consumers in the same way as other retail goods as they are not a normal item of commerce. The Guild is supportive of the essential regulations for advertising as they are in the public interest and reflect Australia's Quality Use of Medicines (QUM) Strategy⁴. The Guild recommends caution where terms of trade may encourage excessive stock holdings that encourage the disproportionate or unprofessional promotion of therapeutic goods.

The Guild supports allegations of advertising breaches being assessed and managed by an independent body. When there are advertising issues arising regarding community pharmacy, the Guild is willing to be a consultant.

With this in mind, the Guild supports in-principle:

- the co-regulatory model for managing the advertising and promotion of therapeutic goods as this fosters a strong and open partnership between Government, professional and industry organisations

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- creating uniformity between the therapeutic industry codes of conduct with application to all sponsors of therapeutic goods
- aligning therapeutic industry codes of conduct with relevant healthcare professional standards, guidelines and codes
- the requirements for quality-assurance processes, such as pre-approvals or post-marketing review, for all forms of advertising and promotion of therapeutic goods
- that judgements on what constitutes bona fide news and what constitutes advertorial should be made on the basis of presentation rather than the program or platform in which it is broadcast, and
- sanctions for those that breach advertising codes or standards, particularly repeat offenders, so long as a reasonable investment has been made into informing and training the relevant sectors of the processes and their responsibilities.

The Guild also supports the ongoing development of clear and consistent guidelines, with a corresponding training campaign, for product sponsors, retailers, and healthcare professionals to ensure they understand the advertising system, their responsibilities and associated penalties.

Direct to Consumer Advertising of Medicines

The Guild believes that advertising cannot provide sufficient objective information to enable a consumer to choose an appropriate medicine and use it safely and effectively. The Guild supports direct-to-consumer advertising of medicines that complies with the Therapeutic Goods Advertising Code (Advertising Code)⁵. Advertisements should not contain exaggerated claims that may confuse, mislead, or deceive consumers, nor exploit their lack of knowledge.

The Guild supports practices promoting medicines to consumers that encourages them to seek appropriate professional advice. Pharmacy personnel should assist consumers not to regard medicines as normal items of commerce. All advertisements for medicines should include a mandatory statement regarding the advertising code and how to make a complaint. Further, the Guild supports research being undertaken to assess the effect of advertising on QUM and the establishment of a mechanism which will facilitate monitoring the impact of medicine advertising on health outcomes.

Advertising of Prescribed Medicines

The Guild does not support direct-to-consumer branded advertising of Prescription Only Medicines and Controlled Drugs nor pricing as a promotional activity for prescribed medicines, including as pharmaceutical benefits. The Guild supports consumers having access to price information about prescribed medicines consistent with the Advertising Code that ensures consumers receive accurate and reliable price information without unhealthy promotional practices that can compromise patient care.

Advertising of Pharmacist Only Medicines

The Pharmacist Only Medicine category utilises the professional expertise of pharmacists as front-line primary health care providers to treat common everyday health conditions. The availability of Pharmacist Only Medicines without prescription through a consultation with the pharmacist provides consumers with access to effective treatments for a wide range of conditions to facilitate the appropriate, safe, and quality use of medicines. Advertising of these medicines should not provide consumers with unrealistic expectations of access to and treatment with these products.

The Guild believes that it is inappropriate for every Pharmacist Only Medicine to be advertised to consumers. The Guild supports direct-to-consumer advertising of Pharmacist Only Medicines under the following conditions:

- Sufficient time is allocated for pharmacists to become familiar with the increased availability and demand and associated professional responsibilities when products are re-scheduled from Prescription Only to Pharmacist Only.
- Additions to Appendix H of the Poisons Standard only occur following the usual process for amendments to the Poisons Standard, including consideration by the Advisory Committee on Medicines Scheduling and public consultation.
- Industry assists the profession through both consultation and funding to develop relevant professional support materials for the supply of Pharmacist Only Medicines.
- All advertisements inform consumers that Pharmacist Only Medicines are only available in consultation with a pharmacist.
- Advertising complies with the Advertising Code requirement to include the mandatory statement 'ask your pharmacist about this product'.

Advertising to the Professional Sector

The Guild supports the ethical promotion of professional products to healthcare professionals and believes this is reinforced by open disclosure by sponsors and manufacturers of all financial relationships with healthcare professionals.

All claims in advertisements to the professional sector should be supported by quality and balanced evidence which should be readily accessible by healthcare professionals to conduct their own research.

Advertising and pharmacy assistants

Under the Therapeutic Goods Act 1989⁶, pharmacy assistants are not recognised as healthcare professionals and medicines advertising directed at pharmacy assistants must comply with the Advertising Code. The Guild believes that it is in the public interest for pharmacy assistants to access information about Prescription Only, Pharmacist Only, Pharmacy Medicines as part of their workplace development to effectively and safely execute their duties.

While preference is for use of active ingredients, the Guild supports the responsible use of brand names for therapeutic goods in accredited training programs and materials for pharmacy assistants to enable pharmacy assistants to effectively support pharmacists with managing consumer requests for and/or supply of scheduled medicines in the course of their duty.

The Guild believes that accredited education modules should contain generic and brand names to help provide a balanced education in a product category. The Guild believes that all training materials should align with the Advertising Code.

Endorsement and Testimonials

Regulated Health Services

With community pharmacies providing an ever-increasing range of professional pharmacy services, the Guild supports the promotion of such services to the public, recognising the need for promotional activities to be consistent with the 'Guidelines for advertising a regulated health service'⁷ endorsed by the Pharmacy Board of Australia⁸. The Guild supports community pharmacies integration within the community through promotional activities including but not limited to sponsoring a sports team, participating in public health campaigns, participating in fundraisers, and health conditions awareness activities.

Therapeutic Goods

The Guild believes that it is inappropriate for trusted public figures and professional organisations, including healthcare professionals such as pharmacists, to endorse therapeutic products in advertisements targeted directly to consumers. Healthcare professional endorsement may discourage consumers from seeking

further advice for their individual needs due to the perceived expertise of the person or organisation endorsing the product. Without the direct intervention of a healthcare professional a person may misdiagnose themselves or may misuse the product. The Guild also does not support consumer focused therapeutic products endorsement by celebrities. Such endorsements are usually incentivised, does not guarantee similar therapeutic effects and are not usually an area of their expertise.

The Guild supports endorsement of therapeutic goods to either consumers or healthcare professionals according to the Advertising Code and other legislative instruments. The Guild supports the right of consumers to make an informed choice about therapeutic products.

However, the Guild does not support any form of endorsement for therapeutic products that promotes misuse, inappropriate use, or which undermines the relationship and trust a consumer may have with their community pharmacist.

If an organisation receives payment for any endorsement, the Guild supports in-principle that this should be acknowledged in advertisements within mainstream or specified media as defined within the Advertising Code. However, specific details could be considered as 'commercial-in-confidence' and should not be publicised except under agreement from all concerned parties.

Gold Cross Endorsement

The Guild's Gold Cross Logo is a symbol of community pharmacy that is well recognised by other healthcare professionals as well as the general public. The use of the Guild Gold Cross Logo reinforces concepts of trust and service from community pharmacies and provides a consistent message of 'referring to your community pharmacist for quality advice'. The Guild sanctions the use of the Guild Gold Cross trademark, logos and/or business names for the endorsement of therapeutic products for Guild members and for the general public when these products meet the criteria established by the Gold Cross Board.

Testimonials

Testimonials are a form of endorsement for therapeutic products and health services and are not supported by the Guild. They can indirectly imply the promoted product or health service is suitable for everyone, potentially misleading consumers regarding the use, efficacy and safety of the therapeutic product or health service being promoted. While testimonials could contribute to the credibility of the product being promoted, the Guild is concerned that there are limited quality assurance mechanisms in place for consumers to be able to confirm the authenticity of testimonials.

Advertising on social media

Advertising on social media through "influencers" increases the risk that patients are not fully informed about the products and services and that they may form unrealistic expectations of results. It also poses a particular risk to younger people due to the nature of the audience for some social media platform. The Guild does not support any form of influencer advertising as they are not medically trained professionals, hence, poses a threat to public health. The Guild does not support community pharmacies soliciting influencers to advertise on their behalf. Manufacturers and suppliers who enter into arrangements with social media "influencers" must ensure that any advertising produced, complies with all guidelines for advertising.

Responsibilities

Individual pharmacist owners are responsible for ensuring all activities that occur within their pharmacy complies with relevant laws and professional requirements. This is recognised by the Pharmacy Board of Australia's *Guidelines for Proprietor Pharmacists*,⁹ which also highlights that this responsibility cannot be delegated. While the Guild agrees that the pharmacist proprietor should be held accountable for any advertising breaches involving their pharmacy, pharmacy banner groups should also be held accountable

for situations involving multiple pharmacies within the banner, including websites that promote on behalf of the whole group.

Managing Breaches and Complaints

In order to streamline the complaints process and ensure consistency, the Guild supports the current arrangements in which the Therapeutic Goods Administration (TGA) and the Australian Health Practitioner Regulation Agency (Ahpra) are responsible as independent bodies for respectively managing therapeutic product advertising complaints and related professional complaints.

While supporting stronger penalties to enhance compliance with advertising regulation, there must be the discretion to allow leniency where breaches are genuinely of an inadvertent nature. For this reason, the Guild cautions against the use of civil penalties.

The Guild also supports activities to inform consumers of how the advertising system is meant to work and their rights in making a complaint.

Background

Advertisement of therapeutic goods is defined in the *Therapeutic Goods Act*⁶ as any statement, pictorial representation or design that is intended, whether directly or indirectly, to promote the use or supply of the goods. The *Therapeutic Goods Advertising Code*⁵ is the legislative instrument used to ensure the marketing and advertising (including endorsements) of therapeutic goods is conducted in a manner that promotes the quality use of the product, is socially responsible and does not mislead or deceive the consumer.

Adherence to the Advertising Code is managed under a co-regulatory system which is designed to protect the public and retailers or service providers from unscrupulous operators who may make exaggerated or misleading claims about product/service effectiveness and/or safety to increase sales.

Community pharmacy is a unique healthcare environment consisting of a retail component combined with the professional service obligations of pharmacy practice.

There are a number of regulatory and professional instruments of relevance to the pharmacy sector providing a framework to regulate the advertising of professional pharmacy products and services and the provision of price information when direct-to-consumer advertising is prohibited. These include:

- *Competition and Consumer Act* (commonly referred to as the Australian Consumer Law)¹⁰
- *Therapeutic Goods Act 1989*⁶
- Therapeutic Goods Regulations¹¹
- Therapeutic Goods Advertising Code⁵
- Medicines Australia Code of Conduct¹²
- Australian Self-Medication Industry Code of Practice¹³
- Complementary Healthcare Council Code of Practice¹⁴
- Direct Selling Association of Australia Code of Practice¹⁵
- Pharmacy Board of Australia Guidelines for Advertising of Regulated Health Services¹⁶
- Pharmaceutical Society of Australia Professional Practice Standards¹⁷
- Australian Standard AS 85000:2017: Quality Care Community Pharmacy Standard³

Definitions

1. Therapeutic goods: Therapeutic goods are broadly categorised as:

- Medicines: including prescription, over-the-counter (paracetamol) and complimentary medicines (Vitamin D)

- Biologicals: something made from or containing human cells or tissues, such as human stem cells or skin
- Medical devices: including instruments, implants and appliances, such as pacemakers and sterile bandages.¹⁸

A detailed definition can be found in Section 3 of the *Therapeutic Goods Act 1989*⁶.

Authority

Endorsed

National Council – July 2024

National Council – June 2012

National Council – March 2005

Reviewed

Practice, Policy and Regulation Sub-Committee - February 2024

Policy and Regulatory Affairs Committee - May 2012

Strategic Policy/Rural and Professional Services Committee - February 2005

References

¹ [What are 'therapeutic goods'? | Therapeutic Goods Administration \(TGA\)](#)

² [What is QCPP? - qcpp site](#)

³ [AS 85000:2017 | Quality Care Community Pharmacy Standard](#)

⁴ [National Strategy for Quality Use of Medicines | Australian Government Department of Health and Aged Care](#)

⁵ [The Therapeutic Goods Advertising Code | Therapeutic Goods Administration \(TGA\)](#)

⁶ [Therapeutic Goods Act 1989 \(legislation.gov.au\)](#)

⁷ [Australian Health Practitioner Regulation Agency - Guidelines for advertising a regulated health service \(ahpra.gov.au\)](#)

⁸ [Pharmacy Board of Australia - Codes, Guidelines and Policies](#)

⁹ [Pharmacy Board of Australia - Codes, Guidelines and Policies](#)

¹⁰ [Competition and Consumer Act 2010 \(legislation.gov.au\)](#)

¹¹ [Therapeutic Goods Regulations 1990 \(legislation.gov.au\)](#)

¹² [About the Code – Medicines Australia](#)

¹³ [ASMI Code of Practice \(chpaustralia.com.au\)](#)

¹⁴ [Complementary Healthcare Council of Australia Code of Practice](#)

¹⁵ [DSA Code of Practice | DSA \(directselling.org.au\)](#)

¹⁶ [Pharmacy Board of Australia - Guidelines for advertising a regulated health service](#)

¹⁷ [Pharmaceutical Society of Australia-Professional-Practice-Standards](#)

¹⁸ [What are 'therapeutic goods'? | Therapeutic Goods Administration \(TGA\)](#)