

# **Consultation Feedback on MRPB Advertising, Codes and Guidelines.**

An AHPRA Submission

Provided By: Medical Imaging Consultancy Services Pty Ltd

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The consultation paper seeks feedback on:

1. A code of conduct for the profession
2. Addressing issues like providing good care, effective communication, confidentiality and privacy, informed consent, adverse events and open disclosure, maintaining professional boundaries, health records, conflicts of interest, and financial and commercial dealings.
3. Guidelines on mandatory reporting
4. These guidelines explain the situations when a health practitioner or their employer must notify the Board through the Australian Health Practitioner Regulation Agency (AHPRA) about a registered health practitioner's misconduct. There are four types of misconduct: intoxication, sexual misconduct, impairment, and significantly departing from accepted professional standards.
5. Guidelines on Advertising
6. This includes what is acceptable advertising, such as factual statements about the services a profession provides. The Guidelines also define what is unacceptable, such as not disclosing risks associated with a treatment. The Guidelines clarify the acceptable use in advertising of titles, warning statements, advertising of price and how to complain about a breach of the Guidelines.

The Board is interested in comments from a wide range of stakeholders and invites written submissions on these codes and guidelines.

## Introduction

These guidelines for advertising of regulated health services (the guidelines) have been jointly developed by the national boards under s. 39 of the Health Practitioner Regulation National Law 2009 (the National Law)<sup>1</sup>

The relevant sections of the National Law that apply to the regulation of advertising of regulated health services are set out in Attachment 1, 'Extract of relevant provisions from the Health Practitioner Regulation National Law Act 2009'. In particular, s. 133 of the National Law states that 'a person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that — . The purpose of the guidelines is to provide guidance about the interpretation of the provisions of the National Law that apply to advertising of regulated health services. Under the National Law, a regulated health service means 'a service provided by, or usually provided by a registered health practitioner'.

- (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) uses testimonials or purported testimonials about the service or business; or



(d) creates an unreasonable expectation of beneficial treatment; or  
(e) directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.'

These guidelines have been developed to advise registered health practitioners and others who advertise the services provided by such practitioners of:

- the operation of s. 133 of the National Law
- how the boards are likely to interpret and apply these provisions, although boards will take into account all relevant facts and circumstances in each case
- what the boards have determined to be minimum standards of practice in relation to the advertising of regulated health services.



## **Request for more time to assess and provide adequate feedback:**

It shall be noted the timelines that were set are too short, to allow for constructive dialogue of the provided document. As such the consultation is barely finished, or not nearly as in depth as it needs to be. It should be noted that Practitioners are providing feedback and consultation over the Christmas Holiday break, which is unreasonable and although extended the period by a mere 8 working days, when 60 were requested.

It is felt that this type of speedy conduct will lead to a poor implementation of the goals, as many things have been missed, and the application of other professional boards, drafts, although time saving is not relevant with a diagnostic test service, that is referred.

I would welcome the opportunity to consult in person with a meeting with representatives' from AHPRA.





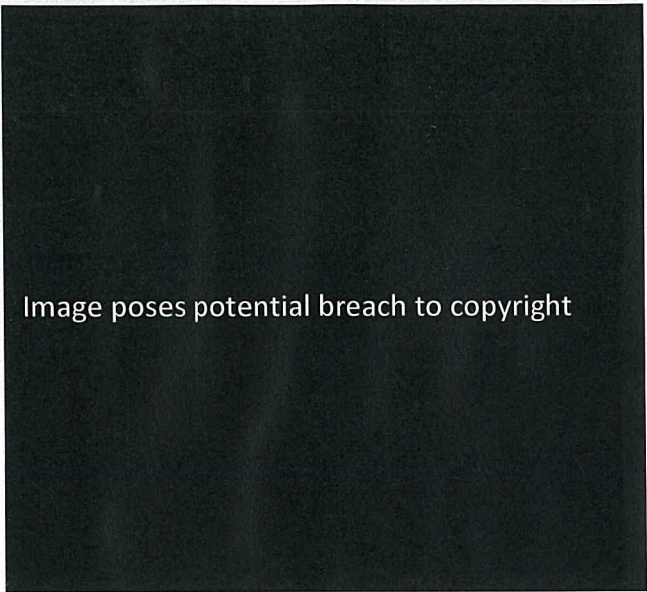
## Draft advertising code.

referring to proposed Draft item	Comment / Inclusion / Exclusion required
<b>1.0 Definition of advertising</b>	Needs to be specific about inclusions and exclusions (e.g. Public health notifications), this needs to be specific to Medical Radiation Practice. at the moment this appears to be very generic.
	<p>1.2 Advertising of services</p> <p>A practitioner must not advertise the services of a practice where it appears that a service creates an unreasonable expectation of beneficial treatment. Example of this <b>SPECIFIC</b> to Medical Radiation Sciences could be the advertisement of “low dose” CT or the use of 128 slice CT scanners as opposed to 64 slice CT scanners. In the case of 128 is alluded to being “better’ than 64 slices, when in fact they are the same. In the case of low dose CT, this technique is sometimes inferior and leads to poorer diagnostic confidence, however simply stating it implies that other services are in fact high dose and therefore more harmful.</p> <p>Comment: the provision of advertising specific to MRS, tend to be undertaken by the Radiologist or marketing team</p>
<b>2.1</b>	unable to review this in light of the current legislation, due to hectic time constraints.
<b>2.2</b>	which are the “relevant consumer affairs departments”? unsure what this paragraph means, if it is to inform, it fails.
<b>2.3</b>	Unable to review this Therapeutic Goods Act 1989 (Cwlth) with proper legal representation due to time constraints.
<b>3 Professional</b>	The Board should supply legal advice to practitioners with respect to the obligations of practitioners, if the board expects



<b>Obligations</b>	<p>practitioners to comply with the guidelines.</p> <p>The consumer base for Medical Imaging is a referred service and as such should be exempt from “advertising to consumers” as to take advantage of them, due to the referred nature of the service. Marketing and Advertising aimed at the referral base (Drs, Physios, etc) is in fact marketing to an informed clientelle and as such should be free game within the limits of other set standards. In the case of MRI where a private agreement can be struck, no further advertising schedule should be sought</p> <p>the heading of this should be changed to “professional obligations towards advertising”</p> <p>Once again the relevance to this paragraph is questionable, specific to MRS practitioners.</p>
<b>3.1 Ensuring competence</b>	<p>agreed</p>
<b>3.2 Professional Qualifications</b>	<p>MRS practitioners qualifications should <b>NOT</b> be mandated that they are clear to the public, as this is completely unreasonable for large departments, where over 100 employees can be on display. if asked they should obliged, however not mandated.</p>
<b>3.3 substantiation of claims</b>	<p>this needs to be reviewed carefully by the board with specific reference to Medical Imaging, as x-rays are harmful. In its current format it would mean that each X-ray practice will have to have a warning about the risk associated with advertising of having a practice which is not fitting with the core of the legislation.</p> <p>eg. 128 slice CT scanner*</p> <p>*CT uses x-rays and may be harmful to your health, however we can't quantify that risk until we give you a dose report after the exam, which is only a guide, and needs to be converted to effective dose using computer software.</p>

	<p>This would be appropriate to send the patient for an MRI, given the risks. However this opens a massive kettle of fish, of why patients are having CT scans instead of MRI scans, which pose less risk. Thus the advertising standards, should assist with maintaining the status quo.</p>
<p><b>3.4 Authorising the content of advertising</b></p>	<p>delete the whole 3 paragraphs and replace with:</p> <p><b>Medical Radiation Practitioners are not responsible for the style and content of any advertising material associated with the provision of their goods and services.</b></p> <p><b>Responsibility rests with the Practice Director, Managing director, CEO, administrator or other person in charge of the organisation or practice.</b></p> <p>The reason for this is clearly that in the RANZCR guidelines, the Radiologist is responsible for all aspects of the Medical Imaging Examination, and Medicare pays benefits on that basis. Radiographers aren't typically the benefactors of the financial profits of the practice and as such i see no reason why Radiographers should take on the risk (\$5000 INDIVIDUAL FINE!) for such oversights by management. This guideline is unfair in its application to Radiographers who have no autonomy in the provision of their services.</p>
<p><b>3.5</b></p>	<p>agreed</p>

<p><b>4</b></p>	<p>(e) this shouldn't apply to Medical Imaging related procedures, e.g. ultrasound guided injections, CT, Barium studies. needs to be granted exemption as with all of the Medical Imaging procedures. CT that uses a contrast injection technically is an invasive procedure, with risks. Simply to inform the Public, eg CT available, should not have to provide a warning statement.</p> <div data-bbox="528 564 1177 1153" data-label="Image">  <p>Image poses potential breach to copyright</p> </div> <p>*note 42 patients now have radiation induced cancer, given the estimates given by brenner et al (2001)</p>
	<p>(f) enhanced photos are a part of life, in fact all Medical images are "enhanced"</p> <p>(h) agreed</p>



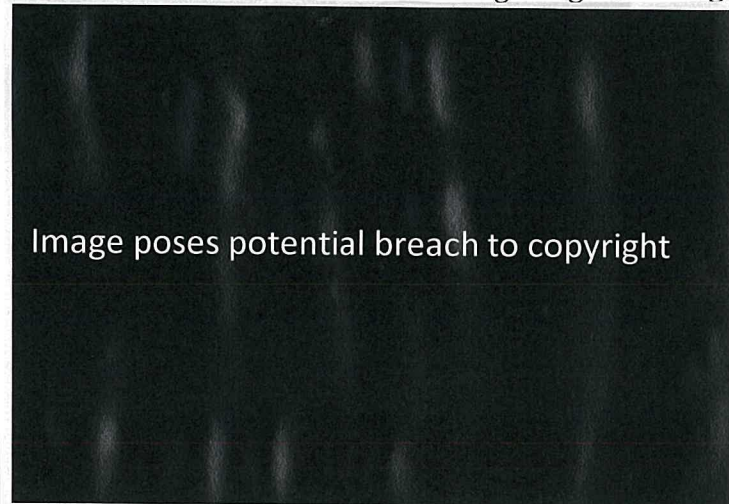
**5. What is unacceptable advertising?**

It is noted that the board has provided no clear indication or examples, as this section is intended to be.

examples would need to be provided in a separate consultation for the following specific points.

- (a)
- (c)
- (f)
- (h)
- (j) Specifically CT
- (l)

could the board review the following image in the light of c,f and i



I have not problems with 90% of the Advertisement, however the use of "LowDose: YourChoice" is worrying, I'm not so sure the public actually know their current risk to completely asses the potential risk form a CT scan, and as such j and i come into play.

<b>6 Specific requirements</b>	
<b>6.1 graphics or visual representations</b>	<p>remove paragraph 2 remove paragraph 3</p>
<b>6.2</b>	<p>unsure how this applies to Medical Imaging, CT specifically. Please clarify and provide resources on this.</p> <p>It is thought that CT and other medical imaging procedures should be exempt form this.</p>



<p><b>6.4 Advertising of qualifications and titles</b></p>	<p>this should be optional for Medical Radiation Practitioners, use words like “may clearly display” “if displayed, must clearly display”</p> <p>It seems a little over the top to walk into a large Imaging Department and see over 100 practitioners credentials written up on the wall, it may also cause a large amount of embarrassment to senior members of staff are completely “out of their depth” by junior members of staff.</p> <p>Some practitioners, although very experienced only have TAFE qualifications, from back in the day, I think that putting up qualifications as mandatory are over the top and unnecessary. However if a practitioner has to put their name up, then the correct qualifications should be assigned to it. Dr John Bloggs (Phd Interpretative Dance) BAppSc (MRS) NucMed</p>
<p><b>6.4.2 Advertising of specialties and endorsements</b></p>	<p>Of note is the absence of the “Magnetic Resonance Technologist” within the provisions of item 119 relevant to Medical Radiation Sciences, and would therefore be exempt from registering, similar to the other sub-specialty such as Ultrasound, and Sonographer.</p>

<b>6.4.3 Other qualifications or memberships</b>	<p>Unable to review in light of the Act, due to time constraints</p>
<b>6.5 Advertising of price information</b>	<p>Agreed</p>
<b>7.1 Therapeutic Goods Advertising Code 2007</b>	<p>Unsure if this applies to diagnostic imaging, please provide resources on this.</p>



<b>9 How a notification or complaint may be made</b>	<p>Seems reasonable, to encourage a reporting culture a “reply paid” system should be used.</p>
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Code of conduct for registered health practitioners

<b>1.1 Use of the Code</b>	<p>The board needs to provide resources for MRS to assist with the careful guidance offered.</p>
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<p><b>1.2 Professional values and qualities</b></p>	<p>Please define the ethical values of the profession. Will the board be putting forward a deontological position?</p> <p>The ethical standard of the practitioner here is one that is not clear. This needs to be further defined, As broadly speaking the ethical obligation using Kant. Kant argued that it was not the consequences of actions that make them right or wrong but the motives of the person who carries out the action. Which in short is not really what the board is trying to achieve.</p> <p>Ethics in this context should be perhaps be replaced by “Informal theories of etiquette”</p>
<p><b>2.4 Decisions about access to care</b></p>	<p>a) yes b) yes c) yes d) Denial of care, should be allowed if after reasonable steps are taken to minimize risk, yet it is decided that the risk posed to staff, or staff refuse to take on that risk, based on a health and safety assessment. E.g. lifting an obese patient, without proper lifting equipment, this patient should be referred to a more suitable institution. Example 2, the patient will experience Denial of Service if they exceed the manufacturers weight limit for the equipment.</p>
<p><b>3.1 Introduction</b></p>	<p>“Relationships based on openness, trust and good communication will enable practitioners to work in partnership with patients or clients.”</p> <p>Rework sentence to say “Relationships based on good communication will enable practitioners to work in partnership with patients or clients”</p>

<p><b>3.2</b></p>	<p>a) mutual obligation b) c) yes, practice privacy policy is encouraged d) e) when relevant f) agreed g) refer to sec 8.12</p>
<p><b>5.2 Wise use of health care resources</b></p>	<p>Would the board please provide specific resources on this with respect to MRS, comments to follow:</p> <p>a) Referred services such as those provided by MRS, e.g. are expected to be carried out and not deemed “inappropriate for the assessed needs” as MRS are technicians that do not do the assessment of patients. b) “whenever possible helping them to do so” – remove this as many procedures are necessary and can be simply paid for, however if waiting for Medicare or Hospital funding, care will most certainly be delayed. It’s not the MRS role to fund this. c) Requires complete regime change, remove this d) ? be specific here please, give examples</p>
<p><b>5.4 Public health</b></p>	<p>Provide resources on this please, if the board expects practitioners to “promote the health of the community through disease prevention and control, education and, where relevant, screening”</p>

<b>8.4 Health records</b>	<p>f) a reasonable fee may be charged for that service</p>
<b>8.12 Financial and commercial dealings</b>	<p>c) or wine</p>
<b>9.1 Ensuring practitioner health</b>	<p>“As a practitioner, it is important to maintain health and wellbeing. This includes seeking an appropriate work-life balance” – Isn’t this a very general comment relevant to all people, not just practitioners?</p> <ul style="list-style-type: none"> <li>a) Insulting given the context.</li> <li>b) .</li> <li>c) Forcing immunization is not something that the board should be able to do, it is a personal choice. E.g. TB immunization has risks that some people prefer not to take. This should be a choice that is respected. Immunization should be encouraged where relevant.</li> <li>d) .</li> <li>e) “endeavoring to work safe hours whenever possible” – too subjective, workforce shortages exist at the moment!</li> </ul>



	<p>f) These are? Resources please.</p> <p>g) Example, eyesight? Hearing? Fatigue?</p>
<b>10 Teaching, supervising and assessing</b>	

## **Supervision standards:**

As there is not enough time given to comprehensively assess and evaluate the supervision standards of students, I would put forward a few recommendations:

1. Ratio driven Student numbers at sites, 1 Registered Member : 2 Enrolled Students
2. Consultation with HWA, as they have many contracts underway that will be affected by guidelines set by the MRPB.
3. Where more than 3 students are present a nominated “student supervisor” must be delegated.
4. Students are there to “learn” and should be held to take a “learning” attitude
5. As Students are there to learn, they should not be used to address workforce shortages.

