



Information for Sponsors

Advertising Complementary Medicine Products to Healthcare Professionals

The Complementary Healthcare Council (CHC) has recently been contacted by the Therapeutic Goods Administration (TGA) who has raised concern over **the seriously inappropriate advertising of complementary medicines to various healthcare professionals**. It has become evident that some 'practitioner-only manuals' are unlawfully promoting LISTED medicines for the treatment of serious and life threatening medical conditions, which is in breach of various requirements of the *Therapeutic Goods Act 1989* ("the Act").

The TGA have advised they will be reviewing this matter in the forthcoming months and will be taking formal regulatory action, including the possible cancellation of products from the Australian Register of Therapeutic Goods (ARTG), against those who inappropriately advertise and distribute non-compliant advertising material to healthcare professionals.

This information sheet has been created in consultation with the TGA and presents an opportunity for those companies who produce and distribute 'practitioner-only manuals' to review and amend accordingly.

Any advertising material (such as 'practitioner only manuals'), which is found to be non-compliant, should be removed from circulation and not be re-distributed until amended to ensure future and on-going compliance with the relevant advertising provisions of the legislation (refer below for relevant sections of the Act).

At the upcoming CHC Event "*Regulatory Changes in the Complementary Healthcare Industry Forum*" on the 25-26 March 2010, a closed workshop will be held on Advertising to Healthcare Professionals.

Those companies identified as advertisers to healthcare professionals will be contacted directly in regards to attending the workshop. However if you would like to express your interest in attending, please contact Jess Schnitzler - Events & Promotions Co-ordinator, on events@chc.org.au or call (02) 6260 4022.

Definition of an Advertisement

An **advertisement** in relation to therapeutic goods as defined in the Act includes any statement, pictorial representation or design, however made, that is intended, whether directly or indirectly, to promote the use or supply of the goods.

Advertisements can be in the form of **broadcast media** (where the advertisement is disseminated electronically in a visible or audible form or a combination of the two), **mainstream media** (any magazine or newspaper for consumers) or **non-specified media** (brochures, leaflets, flyers, shelf talkers, newsletters, point of sale material, videos, audio tapes and catalogues, as well as any magazines or journals that are not mainstream media).

‘Practitioner-only manuals’ fall within the statutory meaning of an “advertisement” where they ‘... promote the use or supply of the goods’.

Definition of a Healthcare Professional

A **healthcare professional**, as defined by the *Therapeutic Goods Act 1989* includes:

- (a) medical practitioners, psychologists, dentists, pharmacists, optometrists, chiropractors, physiotherapists, nurses, midwives, dental hygienists, dental prosthetists, dental therapists or osteopaths; or
- (b) persons who are:
 - (i) engaged in the business of wholesaling therapeutic goods; or
 - (ii) purchasing officers in hospitals; or
- (c) herbalists, homoeopathic practitioners, naturopaths, nutritionists, practitioners of traditional Chinese medicine or podiatrists registered under a law of a State or Territory.

Advertisements directed exclusively to healthcare professionals are not required to comply with the *Therapeutic Goods Advertising Code* provisions however they must comply with other relevant requirements within the Act.

Specifically, the offence provision at Section 22 (5) states that, ‘a person commits an offence if:

- (a) the person, by any means, advertises therapeutic goods for an indication; and*
- (b) the therapeutic goods are included in the Register; and*
- (c) the indication is not an indication accepted in relation to that inclusion.*

Further, under Section 28, it is a Condition of Listing in the Australian Register of Therapeutic Goods that *“the sponsor of the listed medicine must not, by any means, intentionally or recklessly advertise the medicine for an indication other than those accepted in relation to the inclusion of the medicine in the Register”.*

A breach of a Condition of Listing constitutes grounds for the TGA to **CANCEL** the listing of a medicine from the ARTG; an action which would mean that it would be illegal to supply the product on the Australian market.

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