



Medical practice website compliance

Recently, a new client engaged me to review the practice website they were developing for their new medical practice. They had engaged a professional website developer and sent a draft format and key headings before the build commenced.

Amongst other issues, one of the obvious compliance issues was their intent to have a patient testimonial section. Advertising a testimonial on a platform controlled by the practice would be a breach of the National Law as clearly detailed in the AHPRA Guidelines for advertising regulated health services which can be downloaded at www.ahpra.gov.au/Publications/Advertising-resources/Legislation-guidelines/Advertising-guidelines.aspx

THE GUIDELINES NOTES:

Section 133 of the National Law regulates advertising of regulated health services. It states:

A person must not advertise a regulated health service, or a business that provides a regulated 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 states 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.*

The guidelines are currently under review and so please ensure you check the AHPRA website for any updates guidelines. Note that breaches of the guidelines can result in significant fines and disciplinary action. A good case to read is on www.ahpra.gov.au

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In an Australian-first, Wellness Enterprises Pty Limited, which traded as Australian Male Hormone Clinic, has been fined \$127,500 plus costs after being found guilty and convicted of 17 charges related to unlawful advertising of regulated health services.

What continues to surprise me is the number of website developers who claim to be experts in medical websites, yet seem to have no understanding, or even awareness of the basic rules that apply. The following table lists the compliance

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RISK/COMPLIANCE ISSUE

SOLUTION

1	Breaching advertising legislation under the National Law	Read the AHPRA Advertising Guideline. Carefully review your website to ensure compliance. www.ahpra.gov.au/Publications/Advertising-resources/Legislation-guidelines/Advertising-guidelines.aspx
2	Privacy policy	You should include your 'APP Privacy Policy' in the footer of your website, particularly where you collect or engage with patients online (e.g. telehealth) www.oaic.gov.au/privacy/guidance-and-advice/guide-to-developing-an-app-privacy-policy/
3	Collecting health information online	If you intend to collect patient health information online, include a "consent to collect health information" process which includes making your Privacy Policy accessible on the website. You should include your 'New Patient Registration Form' next to your Privacy Policy in the footer and ensure it has the relevant consent and where to access the full Privacy Policy.
4	Overpromising, especially clinical outcomes	Be wary of marketing words used such as "we provide the best possible healthcare". A safer approach may be to state "we aim to deliver the best possible healthcare". In a civil claim, do you want to be held to account to the highest standard, or to the standard of a reasonable practitioner?
5	Using titles, 'specialist', 'specialises in', 'specialty', 'specialised'	Be wary how you promote practitioners' skills and qualifications. Claiming to have a "sub-speciality" when there is no formal qualification, is better described as "an interest in", or "experienced in". Read www.ahpra.gov.au/Publications/Advertising-resources/Check-and-correct/Titles.aspx
6	Website terms and conditions	Include suitable website terms and conditions drafted by your lawyers based on the content and what your website does. E.g. use of cookies, any healthcare information is of a general nature and not medical advice, etc.
7	General law and legal obligations	In addition to the AHPRA advertising guidelines, there are other laws that apply to all businesses such as the Competition and Consumer Act – which also deals with misleading and deceptive advertising.
8	'Associate' or room rental practitioners	They are running their own 'medical services business' and engage the practice to provide rooms and admin support. Be careful how you promote these practitioners - especially avoid giving the impression of employment. Ensure any advertising is consistent with their service agreement and your lawyers have reviewed the website content.
9	Website security	Ensure you have strong passwords and enable multi-factor authentication. Speak to your web developer and IT consultants on securing the website, your domain registration, access to appropriate personnel.

The above list is not exhaustive and is a summary of the common issues I have witnessed. You should ensure you seek appropriate advice from relevant experts such as website developers, cyber security experts, lawyers, practice management consultants and your medical defence insurer.