

# Advertising Standards Agency and Cap Code

Marketing & Selling - staying within the rules





## Advertising Standards Agency and CAP Code

### Therapies General

When advertising, designing your brochure and working out the content for your website, please be aware of the ASA code for Therapists. I have seen too many leaflets and websites still using the word 'treatments' and saying what their therapies can do! The ASA now have a committee that searches Complementary Therapy websites to warn, close down or even fine those that are not following the rules. Please don't let that happen to you!

Please read the guideline below and click the link to get to the website -

### Therapies: General

Note: This advice is given by the CAP Executive about non-broadcast advertising. It does not constitute legal advice. It does not bind CAP, CAP advisory panels or the Advertising Standards Authority.

Many marketers of health-related products or therapies would like to list ailments that they believe their products or therapies can treat. The Code, however, contains specific rules that restrict the types of claims marketers other than qualified health professionals may make. Rule 12.5 states "Marketers inviting consumers to diagnose their own minor ailments should not make claims that might lead to a mistaken diagnosis". Rule 12.2 states "Marketers must not discourage essential treatment for conditions for which medical supervision should be sought. For example,



they must not offer specific advice on, diagnosis of or treatment for such conditions unless that advice, diagnosis or treatment is conducted under the supervision of a suitably qualified health professional. Accurate and responsible general information about such conditions may, however, be offered.”

As well as ruling against those practitioners claiming to treat conditions that they could not (Pharma Nord (UK) Ltd, 16 January 2008; The Body Detox Clinic, 8 August 2007; Health & Living Foundation, 29 August 2007 (complaint 1); Everwell Chinese Medicine Centre, 25 July 2007 (complaint 1); Healthy Marketing Ltd, 18 July 2007 (complaint 1); East London Homeopathic Centre, 12 July 2006 (complaint 2), and Ever Well Ltd, 4 January 2006 (complaint 1), the ASA has also ruled against practitioners of complementary medicines and therapies who have discouraged readers from seeking conventional medical attention for serious conditions (Health & Living Foundation, 29 August 2007 (complaint 3); Everwell Chinese Medicine Centre, 25 July 2007 (complaint 4); Healthy Marketing Ltd, 18 July 2007 (complaint 2); East London Homeopathic Centre, 12 July 2006 (complaint 2); Ever Well Ltd, 4 January 2006 (complaint 3); Herbmedic, 22 October 2003, and Dr & Herbs, 30 April 2003).

In 1998, CAP produced a Help Note on Health, Beauty and Slimming Marketing Communications that Refer to Medical Conditions to help the industry produce or publish marketing communications that comply with the Code. The Help Note classifies ailments as either those that can be acceptably referred to in marketing communications targeted at the general public or those that cannot be referred to because they are considered too serious to be diagnosed or treated without the relevant medical supervision. The guidelines in the Help Note do not apply to marcoms for medicines that hold an MHRA product licence or marketing authorisation to treat a serious or prolonged ailment.

The Help Note acknowledges that most health practitioners specialise in treating different types of ailments and acknowledges, for example, that a



physiotherapist might be well suited to treating a sports injury whereas massage might help someone suffering from anxiety. Marketers of most disciplines of complementary medicine can find guidance under the entry specific to their discipline, for example acupuncture.

Examples of ailments that may be referred to in marketing communications (subject to the marketer being able to prove the efficacy of the product or therapy) include arthritic pain, IBS, neck ache, feeling down and temporary erectile dysfunction. Examples of ailments that cannot usually be referred to in marketing communications include arthritis, migraine, diabetes, prostate problems, heart disease, hiatus hernia, whiplash and impotence.

The lists are not exhaustive and are updated from time to time in line with ASA adjudications and prevailing medical opinion, including Government reports.

In July 2007 the General Media Panel, in considering rule 12.3, concluded that all complementary and alternative therapy practitioners offering significant or invasive treatments should encourage consumers to take independent medical advice in the initial advertisement and before committing themselves to the treatment.

Marketers of complementary medicines should comply with the more general clauses of the Code; for example, they should not cause undue fear and distress or mislead and should be responsible (The British Prostate Association, 15 October 2003, and Holford & Associates, 26 March 2003). Several complementary practitioners have fallen foul of the ASA by, for example, prefixing their name with the title “Dr” or otherwise implying that they were “qualified” in conventional medicine (Everwell Chinese Medicine Centre, 25 July 2007 (complaint 2); Ever Well Ltd, 4 January 2006 (complaint 4); Great Chinese Herbal Medicine Ltd, 7 December 2005 (complaint 3), and Multicure Health Centre, 6 August 2003). One practitioner continued to describe himself as a “doctor” despite



not being registered with the General Medical Council and having been struck off the General Chiropractic Council's register (Spinal Health Centre, 9 January 2008).

Marketers should ensure they do not make unauthorised medicinal claims (Health & Living Foundation, 29 August 2007 (complaint 4)).

Rule 12.6, introduced to reflect Annex practice 17 of the Consumer Protection Regulations, states that marketers should not falsely claim that a product is able to cure illness, dysfunction or malformations.

See 'Medicines: Prescription-only and Disease Awareness Advertising' and specific therapies.

<https://www.asa.org.uk/advice-online/health-therapies-general.html>

Check out Therapies and References to Medical Conditions –

<https://www.asa.org.uk/advice-online/health-therapies-and-references-to-medical-conditions.html>