

Article

Corporate & Commercial

Advertising Health Services

By Sandy Donaldson

Section 133 of the *Health Practitioner Regulation National Law (South Australia) Act 2010* prescribes rules for advertising health services and reads:

1. 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.

Maximum penalty:

- a. in the case of an individual - \$60,000; or
- b. in the case of a body corporate - \$ 120,000.

2. A person does not commit an offence against subsection (1) merely because the person, as part of the person's business, prints or publishes an advertisement for another person.
3. In proceedings for an offence against this section, a court may have regard to a guideline approved by a National Board about the advertising of regulated health services.
4. In this section -
regulated health service means a service provided by, or usually provided by, a health practitioner.

The penalties for contravention have recently been increased and are substantial (as above)

The Medical Board has published Guidelines for Advertising a Regulated Health Service that can be found at: <https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Advertising-a-regulated-health-service.aspx>.

It has also published specific guidelines for advertising cosmetic surgery: <https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Guidelines-for-registered-medical-practitioners-who-advertise-cosmetic-surgery.aspx>.

continued overleaf...

The guidelines are intended to provide guidance to the legislation, but it should be noted that under section 133(3), a Court may have regard to these in considering whether an offence has been committed, so health providers advertising services should be familiar with these guidelines.



[MORE INFO](#)

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