

1993

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

**MEDICAL PRACTITIONERS (ADVERTISING) REGULATIONS
(AMENDMENT)**

EXPLANATORY MEMORANDUM

**Circulated by authority of the Deputy Chief Minister
Wayne Berry MLA**

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OUTLINE

Part IV of the Medical Practitioners Act 1930 relates to the conduct of medical practice and, for the purposes of that Part, paragraph 35 (1) (j) provides that unsatisfactory professional conduct includes advertising for the purpose of procuring patients or practice otherwise than as permitted by the regulations.

Section 60 of the Act empowers the Executive to make regulations, not inconsistent with the Act, for the purposes of the Act.

The *Medical Practitioners (Advertising) Regulations (Amendment)*, the Amending Regulations, amends the *Medical Practitioners (Advertising) Regulations* (the Principal Regulations) to allow a broader scope for advertising by medical practitioners. The new regulations will allow medical practitioners, with some exceptions, to advertise medical services in any manner. This will apply to all forms of advertising including advertising in the print media and advertising appearing on professional stationery.

However while allowing a broader scope when advertising, the Amending Regulations do not allow a medical practitioner to advertise medical services by television, radio broadcast, public exhibition of film including video tape or by means of a computerised communication or database.

The Regulations also prohibit advertising which:

- is false or misleading or deceptive in some way or which is likely to mislead or deceive a member of the public;
- is vulgar or sensational;
- claims or implies that a particular medical practitioner's service is better than another medical practitioner's service;
- contains testimonials from another medical practitioner or member of the public or other endorsements of a particular medical practitioner; or
- is unprofessional or likely to bring the profession into disrepute.

The Amending Regulations also include a provision which defines what will be taken as misleading or deceptive advertising, for example, a misrepresentation of fact or a statement or inference that treatment may be more effective than can be justified.

Medical practitioners are also required to keep detailed records of all advertisements they make for a period of 12 months after the publication of the advertisement.

FINANCIAL IMPLICATIONS

These Amending Regulations have no financial implications.

Regulation 1: Principal Regulations

This defines the Medical Practitioners (Advertising) Regulations as the principal regulations to the Act.

Regulation 2: Commencement

Provides that the Amending Regulations will commence on the day they are notified in the ACT Gazette.

Regulation 3: Substitution

This regulation provides for the repeal of regulations 2 to 9 inclusive of the Principal Regulations and their substitution with the following new regulations:

2. Advertising-general

New regulation 2 allows a medical practitioner, with some exceptions, to advertise medical services in any manner. This applies to all forms of advertising in the print media and advertising appearing on professional stationery.

3. Electronic media

This new regulation prevents a medical practitioner from advertising on television, radio broadcast, public exhibition of film including video tape or by means of a computerised communication or database. However a registered medical practitioner is not prevented from publicly identifying him or herself as the author of a statement made in respect of a medical matter on behalf of an organisation or if it is in the public interest.

4. Advertising-prohibitions

New regulation 4 prohibits advertising which:

- is false or misleading or deceptive in some way or which is likely to mislead or deceive a member of the public;
- is vulgar or sensational;
- claims or implies that a particular medical practitioner's service is better than any other medical practitioner's service;
- contains testimonials from another medical practitioner or member of the public or other endorsements of a particular medical practitioner; or
- is unprofessional or likely to bring the profession into disrepute.

New regulation 4 (2) defines what type of content will result in an advertisement being taken as false or misleading.

New regulation 4 (3) will prevent a medical practitioner from advertising that he or she practises at that address unless he or she does practise there on a regular basis.

5. Records of advertisements

New regulation 5 requires a Medical practitioners to keep detailed records of all advertisements made for 12 months after the publication of the advertisement.

However the requirements of this new regulation do not apply to advertising which appears on general documentation such as invoices, statements, orders, letterheads, business cards or cheques which is used in the general course of business.