

 **HotDoc** | CPD WEBINAR

# Marketing in Medical Practices: What You Can Say and Send



HOSTED BY  
**Ella Cannon** Partner



**Thursday 5<sup>th</sup> March**  
**12:30pm AEDT**



In the spirit of reconciliation, HotDoc & Medical Business Services acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community.

We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.



# Housekeeping

-  This session is being recorded & will be sent to you 4-6 hours after this session has concluded along with the resources.
-  Use the Q&A tool on your screen to submit a questions through the session & we will address at the end.
-  In the “related content” you’ll find our further feedback form.
-  Your certificate of attendance will be accessible at the 40 min mark, you can access via the  certificate icon on your console.
-  Have a play around with the console/ icons on your screen for an interactive experience.
-  Please take some time to complete our feedback survey to let us know what you thought of today’s session.

## 1 Context

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## 2 Deeper Dive

- National Law
- TGA Advertising Code
- Australian Consumer Law
- Privacy Act / Spam Act

## 3 Key Takeaways

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## 4 Questions

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# Context



**Ella Cannon**  
Partner

# Advertising in health: why is it so restricted?

○ Higher stakes than other industries

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○ Regulation is slow to adopt to innovation

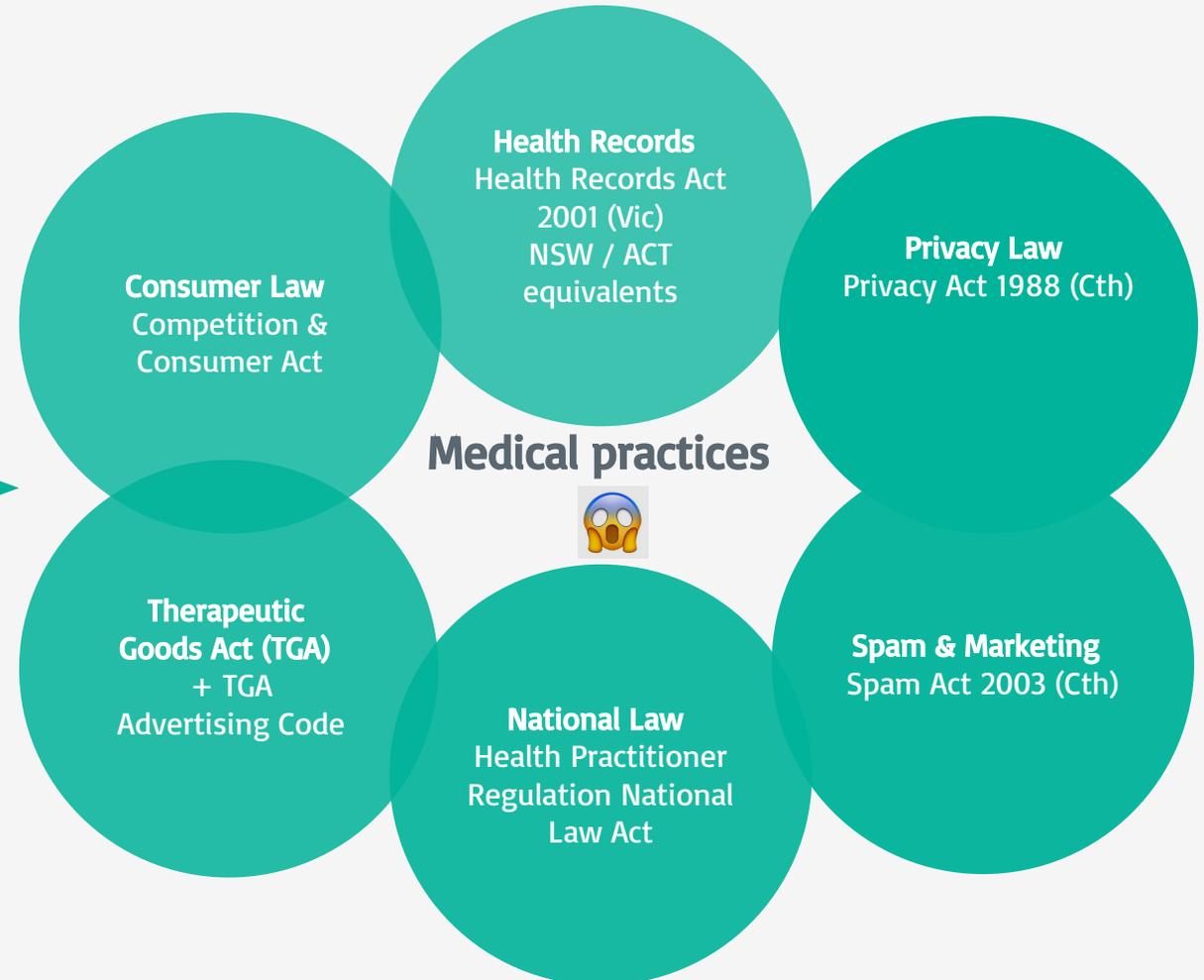
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○ Additional regulation geared at:

- protecting public funding
- managing finite workforce / resources
- protecting patients / consumers of health services

○ Increased regulatory actions/interest

Under each statute, **detailed** and **strict** requirements apply when medical practices advertise health products and services.



- Significant financial penalties, including:
  - **National Law:** Maximum penalty for advertising offences increased as of July 2024 to up to \$60,000 for individuals and up to \$120,000 for corporations per offence
  - **ACL:** Civil penalties up to \$50 million for corporations for misleading conduct
  - **TGA:** Multi-million-dollar penalties for unlawful advertising (e.g. \$4.9M recent case)
  - **Criminal offences:** Serious breaches for noncompliance under the National Law and TGA can lead to up to imprisonment

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- Reputational harm **cannot be quantified or predicted in advance** , and recovery can take years, especially in healthcare, where patient trust is critical

# Deeper dive



**Ella Cannon**  
Partner

- Applies to anyone **advertising** a **regulated health service**

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- **Advertising** includes **all forms** of verbal, printed and electronic communications that promote or **seek to attract a person** to a regulated health service

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- **Ahpra** takes a **risk-based** and **proportionate approach** to enforcing the National Law restrictions

## ○ You must not advertise a regulated health service in a way that:

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- is (or is likely to be) **false, misleading or deceptive**
- offers a **gift, discount** or **other inducement** to **attract a person to use the service or the business** , unless the terms and conditions of the offer are also stated
- uses **testimonials** or **purported testimonials** about clinical aspects of the service
- creates an **unreasonable expectation of beneficial treatment**
- directly or indirectly **encourages the indiscriminate or unnecessary use** of regulated health services

## 1 Wellness Enterprises Pty Limited

- A men's health clinic was fined \$127,500 for advertising that was **misleading and likely to create unreasonable expectations of benefit**.
- The advertisements claimed that its tailor-made programs "*based on blood test results and hormone levels*" could increase energy, focus, masculinity and strength, and ability to satisfy sexual partners.

## 2 The Running Clinic (Australia) Pty Ltd

- In 2019, registered chiropractor Dr Limboro was fined \$29,500 and ordered to pay AHPRA's costs for **false advertising** and the use of **testimonials** .
- Dr Limboro's website:
  - falsely claimed he could prevent, treat and cure cancer through his chiropractic treatment, which was not evidence-based; and
  - contained patient testimonials.

# National law: Okay vs No Way

## No Way

- Guaranteed results
- The leading GP clinic in Melbourne
- Patient testimonial – Dr X “Finally cured my migraines”
- We prevent serious disease through our unique approach
- Book a skin check now to avoid skin cancer
- Welcome to our new practitioner, Dr X who is a women’s health specialist
- Free medical consultations

## Okay

- We provide assessment and management options for back pain
- Experienced team of registered general practitioners
- Patient testimonial – “Friendly reception staff and easy booking system”
- We focus on preventative care, chronic disease management, and patient wellbeing
- We offer skin checks and can discuss appropriate screening options
- Welcome to our new practitioner, Dr X who has substantial experience working in women’s health
- Bulk billing available for eligible patients. Fees may vary.

- **TG Advertising Code** applies to **advertising therapeutic goods** to **consumers**

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- **Relevance:** direct or indirect promotion of medical devices, or prescription-only and pharmacy-only medicines

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- Priority area of the TGA for 2023-2025 is to:
  - '[d]etect and disrupt unlawful supply and advertising of unapproved and high-risk medicines and medical devices used in the wellness and beauty industries including those intended to alter the body's performance and appearance'.

- Prescription-only medicines **must never be advertised to the general public**

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- Commonly advertised examples: weight loss medication such as GLP-1 receptor agonists, testosterone prescriptions for men's health, medicinal cannabis, Sch 4 vaccines

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- GPs must avoid reference to prescription-only medication (especially medicine names, classes, or pricing) in **advertising** to the public

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- Instead:
  - refer to the type of consultation offered (e.g., telehealth consults or vaccination appointments)
  - refer to availability only + align with public health messaging
  - use government-approved health campaign materials

- Prohibits advertising to consumers (by anyone) of a therapeutic good to consumers that:
  - is **inaccurate or unsubstantiated** , or likely to mislead
  - contains any statement or picture that represents the goods to be safe, without harm or side-effects
  - **delays** or discourages seeking necessary medical treatment
  - contains **restricted/prohibited representations** (treatment of certain illnesses e.g. mental illness, cancer, STDs), without TGA permission
  - is **inconsistent with a public health** campaign

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- Restrictions on **endorsements/ testimonials**

## ● Midnight Health (September 2025)

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- Digital healthcare provider and platform developer was issued 10 infringement notices by the TGA
- Fined \$198,000; enforceable undertaking
- The TGA found Midnight Health had **unlawfully advertised prescription-only** medicines, including tirzepatide and semaglutide, across its telehealth brands.
- The company also made **restricted health claims about treating serious conditions** (anxiety and stroke) without TGA approval.

## No Way

- Influvac Tetra now in stock – book an appointment
- Pfizer booster for new Covid-19 strain is here – protect yourself with a vaccination today
- Avoid the flu completely and book a vaccination today
- Access Ozempic for weight loss
- New prescription treatment options for anxiety
- Hire our TGA-approved remote-monitoring devices that are clinically proven to deliver superior results

## Okay

- Flu shots available – book online or call reception
- COVID-19 booster appointments now available
- Flu vaccination helps reduce the risk of influenza and serious complications
- We offer consultations for weight loss management and treatment options
- Speak with your GP about appropriate treatment pathways
- Talk to us about remote-monitoring options

## ● ACL applies to the promotion of health services and goods

### ● Practices should **avoid**:

- Making false or misleading claims about health outcomes, treatment effectiveness, or practitioner qualifications
- Omitting key limitations (e.g service availability or restrictions)
- Advertising rebates, gifts or free incentives such as "free" consultations without intent to supply
- Using bait pricing or partial prices for services

### ● Practices should **ensure**:

- The use of genuine patient testimonials without editing (noting restrictions re clinical aspects)
- The total price of services is displayed (including GST and additional fees/charges)
- Disclaimers are clear and not misleading

## ● HealthEngine (2020):

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- among other things, manipulated patient reviews by omitting or editing negative feedback, misrepresenting ratings for certain practices
- admitted liability for misleading and deceptive conduct - fined \$2.9 million

## No Way

- Superior patient outcomes
- Adept at fixing complex medical problems
- Highly recommended by all patients
- We welcome Dr X, who is a leading expert and renowned for achieving exceptional results
- \$29 consultations available [when this is the 'gap' only]
- Free consultation for eligible patients

## Okay

- Experienced team of registered GPs
- We assess and manage a wide range of health concerns
- We welcome patient feedback
- We welcome Dr X, who is a highly experienced registered GP with a particular interest in women's health issues
- Standard GP consultation cost of \$75. Medicare rebates may apply.
- Bulk billing available for eligible patients

## ● Key privacy tips for marketing in the health sector:

- Consent is needed when using health information, or a 'reasonable expectation' by patients
- Expectations should be shaped at or before the point of collection
- Pre-ticked boxes or bundled consent is risky

## ● Obligations for direct marketing

- Either:
  - obtain consent, or
  - only market if you are comfortable the patient has a reasonable expectation you will do this + it's directly related to providing a health service
- Transparency requirements – privacy policies and collection notices
- Provide a simple opt-out mechanism in every communication / comply with opt-out requests

## Three key requirements for promotional messages:

- 1 Consent – express better than inferred
- 2 Opt-out / unsubscribe link in every message
- 3 Always identify the sender

## Note that:

- The Spam Act is overseen and regulated by the Australian Communications and Media Authority (ACMA)
- ACMA makes It very easy for customers to "dob in" organisations
- ACMA enforcement can result in significant fines

# Key takeaways



**Ella Cannon**  
Partner

✓ **Regulators are interested** - breaches can result in big **penalties** and reputational damage

✓ Always have **evidence to substantiate your claim**

- ✓ Don't
- encourage **unnecessary use** of health services
  - suggest **better health outcomes**
  - refer to **prescription medicines** (even generically)

✓ Be (very) **cautious with testimonials**

✓ Display the **total cost upfront**

✓ Only use patient information for **marketing with consent**, and enable **opt-outs**

 **HotDoc** | CPD WEBINAR

# Flu Vaccine Clinical Update 2026



HOSTED BY  
**Angela Newbound**  
Immunisation Consultant



**Thursday 26 March**  
**12:30pm AEDT**



**HotDoc**

ACADEMY MASTERCLASS SERIES

# Running Flu Clinics with Confidence

Smart setup for busy practices

Wednesday 18th March at 12.30pm AEDT

PRESENTED BY



**Grace Stephens**

Customer Learning  
Specialist



**Dean Weinman**

Customer Advocate



**Natasha Kerr**

Customer Learning  
Team Leader



# Flu Clinic Kit 2026

# Questions?



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Partner



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# Thank You!

