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**The Royal Australasian College of  
Physicians' submission to the  
Medical Council of New Zealand on  
its Statement on Advertising – 2022  
Review**

## Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the 2022 Review of the Medical Council of New Zealand's Statement on Advertising (the Statement).

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

## Key points

The RACP finds the revised Statement to be very reasonable and clear, better enabling doctors to understand their responsibilities to the public, and is therefore largely fit for purpose. However, RACP members have identified certain areas for possible improvements to clarify and enhance the Statement. Consequently, the RACP recommends creating a separate statement on doctor's responsibilities not to spread misinformation or disinformation.

## Consultation Questions

### 1. Do the key points provide an accurate overview of the statement? What changes (if any) should we make to the key points?

Overall, the RACP is of the view that the key points provide a succinct and accurate overview of the statement. However, the College has made some suggestions for further improvements to the wording that is used in some of the key points about advertising.

Under key point two the College suggests the language could be changed to "advertise in a way that is responsible and ethical, includes **truthful and balanced information**, and that does not.....". This would better emphasise the key expectation by the Medical Council that acceptable evidence is disseminated by doctors, as highlighted in the section *ensure that the information you include is truthful and balanced*.

It is also suggested that an additional key point is included with regards to including title, qualifications, and memberships in an advertisement, drawing out the information under point 12 and 13 in the draft.

### 2. Are the definitions of 'Advertisement/Advertising' and 'Testimonial' fit for purpose? What changes (if any) should we make?

The RACP agrees that the definitions used for 'Advertisement/Advertising', and 'Testimonial' are clear, relevant, and comprehensive and therefore largely fit for purpose, but suggest that the Statement could go further to provide more detail on *why* testimonials must not be used.

The College is pleased to note that the definitions of where an advertisement/advertising and/or testimonial can be placed are broad in scope, encompassing material published on websites, in social media or other forms of media. This acknowledges that advertising has changed significantly

in the seven years since the Statement was last published, with websites and social media evolving into major marketing tools.

The diversity of RACP feedback on testimonials indicates that more detail should be provided on the risks associated with their use, enabling the stated rationale to give greater clarity. Some members have questioned the rationale for preventing doctors from publishing testimonials that comment on quality-of-service, stating that doctors should be able to operate like other businesses and that patients and whānau can exercise good judgements. However, the consensus among our members is that doctors should not provide testimonials. Risks involved with doctors being able to publish testimonials identified by our members include that they:

- inherently do not provide a fair and balanced opinion, often including selective subjective positive comments that reflect the experience of one individual but not the likely outcome for another
- do not include adverse events
- create very unrealistic patient expectations, particularly among vulnerable people
- can be unreliable and ungovernable due to the nature of the Internet
- turn a profession into a business, thereby taking away from notions of public service
- have enabled some doctors to advertise services beyond their scope of practice, training, and experience.

Overall, the RACP acknowledges the need for patients to obtain information on doctors that would be useful to their decision-making but agrees that this should not be information that is produced by the doctor themselves. Medicine is not a field where caveat emptor can apply.

### **3. Is the statement sufficiently future-proofed? What changes (if any) should we make?**

As stated above, the definitions of what constitutes advertising material now includes a wide range of material, including website, social media and other forms of media which works well towards future-proofing the Statement. RACP members have cautioned that the nature of the digital environment means it is difficult to predict how and in what form in the future, material may be circulated/transmitted and inserted into the consciousness of patients and whānau. It is suggested that constant review will be required.

### **4. Is the statement clear and practical? What changes (if any) should we make?**

Overall, the RACP finds the Statement clear, comprehensive, and succinct. We endorse the Medical Council's acknowledgement of the inherent power and knowledge imbalance in a doctor-patient relationship. The subject matter and the resultant position of power that medical professionals retain by virtue of the trust placed in them by the public in receiving medical treatment, means that it can be difficult for lay people to make accurate judgements. The RACP has provided feedback with reference to some of the specific expectations for when you advertise as identified by the Medical Council.

#### **Ensure that the information you include is truthful and balanced**

The RACP strongly endorses the inclusion of this section which recognises that it can be a practical challenge for doctors to determine whether the information they advertise is what the Medical Council would consider to be acceptable evidence. We consider the directives given under this section to be a useful list of what factors doctors need to assess to determine if evidence is truthful and balanced. However, we suggest that it may be helpful to draw this information out more and develop it into an assessment tool or framework for doctors to use.

### **Including titles qualifications and memberships in your advertisement**

The RACP suggests that the Medical Council needs to be more definitive in its use of the term “specialist”. Feedback indicates the Statement should clarify that this term should only be used by those vocationally registered in a specialty, whose training is approved by a Vocational Education Advisory Board accredited by the Medical Council and undertaking appropriate continuing professional development relevant to that specialty. For example, in the area of Dermatology, terms such as “skin specialist”, “skin cancer specialist” and “dermoscopist” can lead to misinformation and be confusing to the patients, whānau and the wider public which can then result in inappropriate management with less desirable outcomes.

Feedback from our members also suggests it would be useful to provide a definition of the term “informed consent” (used under points 10 and point 16), with reference to the Medical Council’s [Statement on Informed Consent](#)<sup>1</sup>. It is important for doctors to understand what informed consent means in the context of power imbalances, levels of medical education and complexities in provision of services.

#### **5a. Should this statement be widened to refer to health misinformation (where it links to doctors’ personal promotion and financial gain)? If yes, how would you define misinformation and what would you say about it?**

The RACP agrees that the Statement should be widened to refer to health misinformation. We acknowledge that the challenge of tackling the problem of the spread of health misinformation is significant for health practitioner regulation agencies. The College ask the Medical Council to widen the statement on advertising to specifically refer to the two types of false health information that can be disseminated by doctors - *misinformation* and *disinformation*.

In defining misinformation, the RACP recommends that the Medical Council’s definitions acknowledge these two types of false information - *misinformation* and *disinformation*- and that these differ primarily with respect to intent and mode of spread.

- *Misinformation* involves information that is inadvertently false and is shared without intent to cause harm.
- *Disinformation* involves false information knowingly being created and shared to cause harm<sup>2</sup>.

#### **5b. Should the Council devise a separate statement on doctors’ responsibilities not to spread misinformation, or is that adequately addressed through our statement on Advertising and other existing Council statements?**

The RACP is of the view that the Medical Council should devise a separate statement on doctor’s responsibilities not to spread misinformation to address this unique challenge more comprehensively. To ensure optimal public health and safety in Aotearoa, we support an additional separate statement aimed at combatting health disinformation and misinformation disseminated by doctors, including material distributed for the purpose of public health or as part of a public health programme. We note that the Australian regulator, the Australian Health Practitioner Regulation

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<sup>1</sup> Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand. Informed Consent: Helping patients make informed decisions about their care. [Internet]. Wellington: Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand; June 2021. Accessed 22 February 2022. Available from <https://www.mcnz.org.nz/assets/standards/55f15c65af/Statement-on-informed-consent.pdf>

<sup>2</sup> Wang Y, McKee M, Torbica A, Stuckler D. Systematic literature review on the spread of health-related misinformation on social media. Soc Sci Med [Internet]. 2019; 240 (112552). Accessed 15 February 2022. Available from: <https://doi.org/10.1016/j.socscimed.2019.112552>

Agency (AHPRA), has issued a [COVID-19 vaccination position statement](#), with reference to conscientious objection and COVID-19 vaccination information sharing<sup>3</sup>.

The College notes that the current definition of “Advertisement/Advertising” material in the Statement excludes material distributed for the purpose of public health or as part of a public health programme. The exclusion of public health material from the Statement could be problematic as a key area of concern among doctors in relation to advertising is the spread of false information about COVID-19, public health protections and vaccination, prompting the need for better guidance in Aotearoa on this issue.

While there have been only a small number of doctors reported to be using their position to spread false information in our communities during the pandemic<sup>4,5</sup>, these doctors have an outsize influence. These doctors have potentially undermined the vaccine rollout in Aotearoa and harmed the credibility of other doctors, who are trusted sources of information for patients, whānau and communities. RACP members in Aotearoa have expressed their frustration at the amount of false information being spread as signatories to [Doctors Stand up for Vaccination](#)<sup>6</sup>, an open letter written in August 2021 to present a united and evidence-based voice to the people of Aotearoa in support of vaccination.

The RACP appreciates the boundary between advertising and misinformation can be difficult to identify. We commend the Medical Council on the publication of the recent [Guidance statement – COVID-19 vaccine and your professional responsibility](#)<sup>7</sup> (alongside the Dental Council) which acknowledges that there is no place for anti-vaccination messages in professional practice, nor any promotion of anti-vaccination claims including on social media and advertising by health practitioners. However, we believe it may be timely to develop bespoke guidance on doctors’ responsibilities not to spread inadvertent misinformation or intentional disinformation. We tautoko the call of the World Health Organisation for countries to manage the [infodemic](#) that has arisen during the pandemic<sup>Error! Bookmark not defined.</sup>.

## Conclusion

The RACP thanks Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the NZ Policy and Advocacy Unit at [policy@racp.org.nz](mailto:policy@racp.org.nz).

<sup>3</sup> Australian Health Practitioner Regulation Agency (Ahpra). COVID-19 Vaccination position statement. Registered health practitioners and students and COVID-10 vaccination. [Internet]. Melbourne: Ahpra; 9 March 2021. Accessed 22 February 2022. Available from: [Ahpra---Position-statement---COVID-19-vaccination-position-statement \(5\).PDF](#)

<sup>4</sup> New Zealand Doctor. Eighteen GPs signed anti-vax site – Medical Council investigating 36 doctors but not commenting further. [Internet]. Auckland: New Zealand Doctor; 11 November 2021. Accessed 14 February 2022. Available from: <https://www.nzdoctor.co.nz/article/eighteen-gps-signed-anti-vax-site-medical-council-investigating-36-doctors-not-commenting>

<sup>5</sup> Newshub. Medical council impose interim suspension on three doctors accused of promoting anti-vaccination views. [Internet]. Newshub New Zealand; 14 December 2021. Accessed 14 February 2022. Available from: <https://www.newshub.co.nz/home/new-zealand/2021/12/medical-council-imposes-interim-suspension-on-three-doctors-accused-of-promoting-anti-vaccination-views.html>

<sup>6</sup> Royal Australasian College of Physicians (RACP). Media release – RACP stands up for COVID- 19 vaccinations. [Internet]. Wellington: Royal Australasian College of Physicians; 6 September 2021. Accessed 15 February 2022. Available from: <https://www.racp.edu.au/news-and-events/media-releases/racp-stands-up-for-covid-19-vaccinations>

<sup>7</sup> Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand & Te Kaunihera Tiaki Niho | Dental Council of New Zealand. Guidance statement - COVID-19 vaccine and your professional responsibilities. [Internet]. Wellington: Te Kaunihera Rata o Aotearoa|Medical Council of New Zealand & Wellington: Te Kaunihera Tiaki Niho|Dental Council of New Zealand. Accessed 15 February 2022. Available from: <https://www.mcnz.org.nz/assets/standards/Guidelines/30e83c27d9/Guidance-statement-COVID-19-vaccine-and-your-professional-responsibility.pdf>

Nāku noa, nā

A handwritten signature in black ink that reads "George Laking". The signature is written in a cursive style with a large, prominent 'G' and 'L'.

Dr George Laking  
Aotearoa NZ President  
**The Royal Australasian College of Physicians**