

Regulation of Health Product Advertising in Canada – Overview for Physicians

Definition of Advertising¹: *Advertisement includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device.*

Not all health product² messages are advertising. Health Canada’s guidance document “The Distinction between Advertising and Other Activities³” explains how Health Canada uses contextual factors to help determine whether a given message is information or advertising. If the message is an advertisement, it must comply with the advertising provisions of the *Food and Drugs Act* and associated regulations.

Any person who promotes the sale of a specific health product is subject to this legislation, including physicians when they use their Web sites or other means for this purpose.

Food and Drugs Act

- **Section 9(1):** Prohibits health product advertising which is false, misleading or deceptive, or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety. Examples of possible section 9(1) contraventions: messages which emphasize only product benefits without including safety information; and messages discussing off-label use of a product.
- **Section 20(1):** Prohibits false, misleading or deceptive advertising of medical devices.
- **Section 3(1):** Prohibits consumer-directed ads for health products (including medical devices) which make claims to treat, prevent or cure any of the serious diseases listed in Schedule A to the Act (although Schedule A prevention claims are now permitted by regulation for over-the-counter drugs and natural health products).

Food and Drug Regulations

- **Section C.01.044:** Prohibits consumer-directed prescription drug advertising beyond the drug’s name, price and quantity. This means, for example, that when a prescription drug is advertised by name to consumers, no reference can be made to its therapeutic use and/or benefits.
- **Section C.08.002 (1):** Prohibits the advertising of new drugs which have not been authorized for sale by Health Canada.

Additional information can be found in the document *Health Products Advertising on Physicians Web Sites - Questions and Answers* available on the Health Canada Web site at <http://web.hc-sc.gc.ca/dhp-mps/advert-publicit/pol/web-qa-qr-eng.php>.

Health Canada policies and guidance documents related to health product advertising can be found on the Health Canada Web site at <http://www.hc-sc.gc.ca/dhp-mps/advert-publicit/pol/index-eng.php>

The *Food and Drugs Act* and *Food and Drug Regulations* can be found on the Department of Justice Web site at <http://www.laws.justice.gc.ca/eng/>

¹ *Food and Drugs Act*, R.S.C. 1985, c.F-27,s.2

² Health products include prescription and non-prescription medications, biologics (including vaccines), natural health products, medical devices and radiopharmaceuticals. “Drugs”, as defined in s. 2 of the *Food and Drugs Act*, include all of the preceding health products, except medical devices.

³ http://web.hc-sc.gc.ca/dhp-mps/advert-publicit/pol/actv_promo_vs_info-eng.php