



MINISTRY OF HEALTH
SINGAPORE

Stakeholder Consultation on the Healthcare Services (Advertisement) Regulations

Presented by Health Regulation Group
Ministry of Health
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Objective

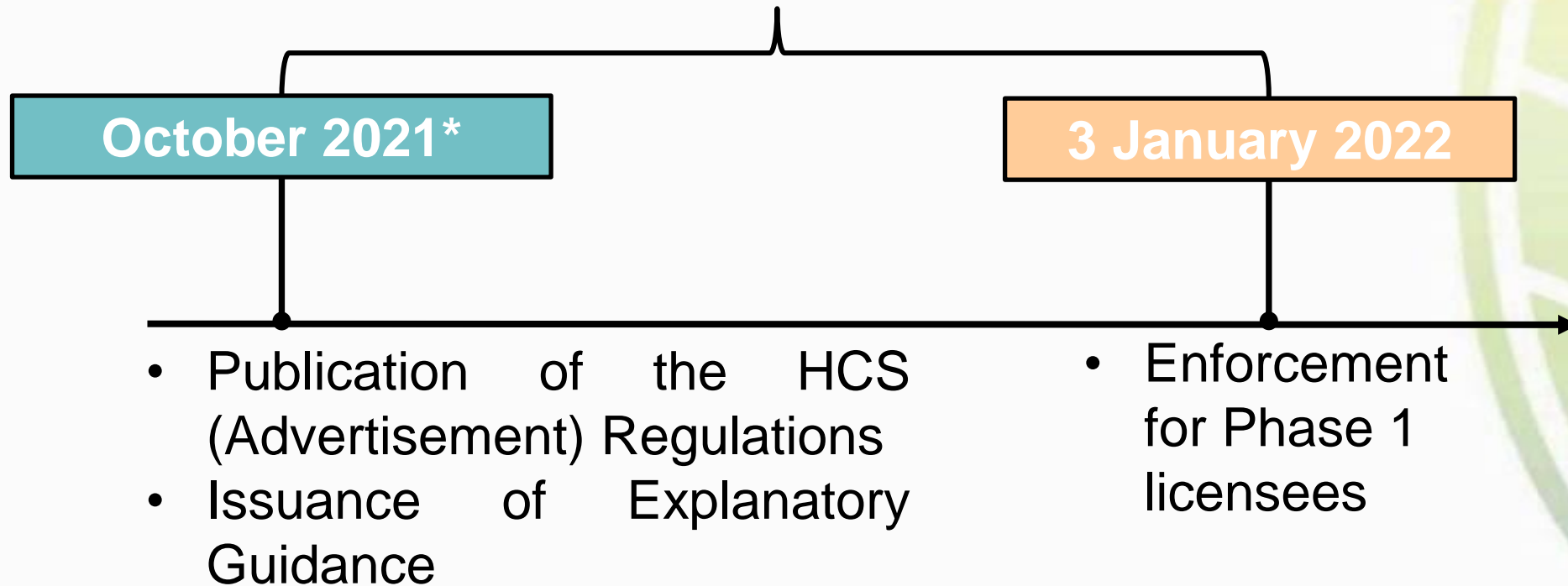
- This presentation gives an overview of the requirements that licensees and authorised persons must comply with for advertisements on licensable healthcare services, and highlights key changes and the new requirements which licensees should take note of.
- Many of the requirements under the existing Private Hospitals and Medical Clinics (Advertisement) Regulations (PHMCAR) are retained in the Advertisement Regulations under the Healthcare Services (HCS) Act.
 - Key changes are proposed after consultation with the Advertisement Panel[#], and in consideration of feedback after implementation of the PHMCAR.
- A similar Explanatory Guidance to the HCS (Advertisement) Regulations will be issued to provide more details on compliance with the regulations.

The Advertisement Panel comprises healthcare professionals and allied health professionals from various medical and dental associations/boards (e.g. SMC, SDC, AMS, SNB etc). It also includes representatives from the Advertising Standards Authority of Singapore (ASAS) and Consumers Association of Singapore (CASE).

Implementation: 3-month sunrise period

Updated on 24
Aug 2021

During this sunrise period, phase 1 licensees should review and rectify (if necessary) their advertisements to ensure compliance with the HCS (Advertisement) Regulations



Overview



Aim of advertisement controls is to ensure that consumers are not:

- ✓ Provided with false and misleading information which cannot be substantiated
- ✓ Enticed to use healthcare services which may not be necessary, or could pose safety risks to their health and well-being

Section 31 HCS Act

- Under Section 31 HCS Act, only the following persons may advertise a licensable healthcare service:
 - (a) **A licensee** that is authorised to provide that licensable healthcare service; or
 - (b) **An authorised person** who is acting on the authority of the licensee in advertising the licensable healthcare service or causing the licensable healthcare service to be advertised.
- Authorised person refers to any person appointed as an agent to advertise healthcare services on behalf of licensees (e.g. employees of the licensee, third party advertising agents or third-party administrators)
 - They can only advertise healthcare services if they are authorised by the licensee – who will have a duty to ensure overall compliance with the content of the advertisement.
 - This also means that advertisements made by third party advertising agents or third-party administrators will have to comply with the same substantive requirements as licensees, such as not including misleading or laudatory information.

Overview of the Advertisement Regulations

Regulation	Summary
<p>[ENHANCED] Reg 3,4: Application and Scope of the Regulations</p>	<ul style="list-style-type: none"> The regulations apply to advertisements published, disseminated or conveyed by a licensee or an authorised person that has a Singapore link. Advertisements made by licensees or authorised persons are subject to these regulations.
<p>[NO CHANGE] Reg 5: Content of advertisements</p>	<ul style="list-style-type: none"> Contains various requirements on the contents of an advertisement (e.g. must be factually accurate, not be laudatory etc.).
<p>[ENHANCED] Reg 6: Advertising media</p>	<ul style="list-style-type: none"> Advertisements published outside of a licensed premises or conveyance are restricted to certain approved media (e.g. newspapers, magazines, the Internet). Prohibits the dissemination of advertisements and directory listings to individuals through push technology or distribution.
<p>[ENHANCED] Reg 7: Advertisement in conjunction with any person</p>	<ul style="list-style-type: none"> Advertisement made by a licensee or authorised person (if applicable) in conjunction with any activity, event, programme, promotion of goods or services must comply with Regulation 5.
<p>[NEW] Reg 8: Advertisement in conjunction with other services</p>	<ul style="list-style-type: none"> Requirements that apply to advertisements by any licensee and/or authorised person advertising its licensable healthcare services in conjunction any other service.
<p>[ENHANCED] Reg 9: Interviews</p>	<ul style="list-style-type: none"> A licensee must not solicit interviews by media organisations, whether the licensee does so itself or through another person (e.g. authorised person).
<p>[NO CHANGE] Reg 10: Contribution to good causes</p>	<ul style="list-style-type: none"> When contributing to good causes, licensees are to ensure that any public acknowledgements only contain the licensee's name.

Overview of the Advertisement Regulations

Regulation	Summary
[NO CHANGE] Reg 11: Filming on licensed premises or licensed conveyance	<ul style="list-style-type: none"> • A licensee must not solicit any employee or person to participate in any filming on any licensed premises or licensed conveyance of the licensee. • Only the licensee's name should be shown in the film's closing credits.
[NO CHANGE] Reg 12: Advertising of public workshops	<ul style="list-style-type: none"> • Allows a licensee or an authorised person to advertise public workshops organized by the licensee that relates to services provided by the licensee.
[NO CHANGE] Reg 13: Display of accreditation, certification or award	<ul style="list-style-type: none"> • Licensees may only display, or publish, disseminate or convey any information relating to, any accreditation, certification or award within the licensed premises or conveyance, or on the licensee's website.
[ENHANCED] Reg 14: Display of testimonial etc	<ul style="list-style-type: none"> • A licensee and/or authorised person may only display, publish or disseminate a testimonial or an endorsement about the licensee's services within the licensed premises or conveyance, or on the licensee's website. Prohibition on the use of patient reviews or testimonials which involve valuable consideration (e.g. paid / sponsored reviews) in advertisements. • New exception for charities to disseminate or distribute corporate publications with testimonials or endorsements to their existing donors.
[ENHANCED] Reg 15: Advertising of promotional programme	<ul style="list-style-type: none"> • Restricts a licensee or an authorised person from advertising promotional programmes. • Licensees that are also charities are now exempted from this restriction.
[ENHANCED] Reg 16: Hyperlinks	<ul style="list-style-type: none"> • A licensee and/or authorised person must not publish on its website a hyperlink to any other website that contains information that does not comply with Regulation 5. • A licensee or authorised person (if applicable) must remove the non-compliant hyperlink immediately once they become aware of such hyperlinks.
[NEW] Reg 17: Compliance with Regulations	<ul style="list-style-type: none"> • Sets out the responsibilities and obligations of a licensee and an authorised person for non-compliant advertisements.

Key Changes



Key Changes in the HCS (Advertisement) Regulations

1. Scope of the HCS (Advertisement) Regulations
2. The licensee's responsibility over content of an advertisement published by an authorised person
3. Prohibiting dissemination of publicity materials / directory listings to individuals via push technology or via distribution
4. Requirements for advertisements by licensee advertising its licensable healthcare services in conjunction with any other service
5. Prohibition of patient reviews or testimonials which involve valuable consideration
6. Exception provided for specified licensees to publish and disseminate testimonials or endorsements and advertise free and/or promotional programmes
7. Responsibilities of an authorised person in relation to non-compliant hyperlinks and advertisements

Regulation 3: Application of these Regulations

[ENHANCED] Advertisements published outside of Singapore are not subject to the requirements in these Regulations

- **Rationale**: To give clarity on the scope of the HCS (Advertisement) Regulations by setting out when an advertisement may be considered to have links with Singapore.
- **Requirement**: These Regulations apply to an advertisement that is published, disseminated or conveyed, or caused to be published, disseminated or conveyed, by a licensee or an authorised person — (a) by any means or in any form or medium; and (b) that has a Singapore link (which will be guided by the criteria in the right hand box).

An advertisement has a Singapore link in any of the following circumstances:

- (a) a person who is physically present in Singapore is capable of having access to the advertisement;
- (b) the advertisement is addressed to a person or class of persons who the licensee or authorised person knows or has reason to believe is physically present in Singapore.

Regulation 5: Advertisement of licensable healthcare service

[ENHANCED] The licensee retains responsibility over the content of an advertisement published by an authorised person

- **Rationale**: The obligation in Regulation 5 ensures that the licensee retains oversight over the contents of the advertisement since the contents will largely relate to clinical matters.
 - *N.B. Under section 31 HCSA, only licensees and/or authorised persons may advertise licensable healthcare services.*
- **Requirement**: The licensee is responsible for ensuring the contents of the advertisement are compliant with the content requirements in Regulation 5 (a) to (g).
 - The obligations of the authorised person in relation to a non-compliant advertisement are dealt with in Regulation 17.

Authorised persons include:

Any person appointed as an agent to advertise healthcare services and provide inputs to the advertising content / strategy / execution on behalf of licensees (e.g. employees of the licensee, third-party administrators).

Regulation 6: Advertising media

To regulate the approved media through which advertising may be done

- **[ENHANCED]** Prohibits the dissemination of directory listings to individuals via push technology or via distribution (i.e. through letter boxes)
 - Under Regulation 5(4) PHMCAR, licensees are prohibited from advertising their services by “sending any advertisement to an individual through push technology or by distributing or giving, free of charge, any advertising material to an individual.”
 - “Publicity materials” disseminated via push technology or free distribution also has a possible unwanted soliciting effect, especially if consent to receive this info was not obtained from the individual
 - The existing PHMCAR prohibition has therefore been expanded in the HCS (Advertisement) Regulations to prevent unwanted soliciting that may inadvertently arise from disseminating such information.
- **[ENHANCED]** Both the licensee and the authorised person (if any) should be responsible for ensuring that the advertisement is published only in approved media.
- **[REMOVED]** In light of the recent developments in telemedicine, the requirements for licensees to ensure that the Internet is not used for patient consultation with any employee of the licensee if the patient is not the licensee’s existing patient has been removed.

Regulation 8: Advertisement in conjunction with other services

[NEW] To regulate advertisement of licensed healthcare services together with any other service

- **Rationale**: Steps must be taken to distinguish the licensed and unlicensed services, to prevent uncontrolled advertisements which entice consumers to consume the unlicensed services and by extension, licensed services.
- **Application**: This broadened scope applies to: (a) situations where MOH has approved the licensee to co-locate with other services under Section 30(2) of HCSA; and (b) any licensee advertising its licensable healthcare services in conjunction with any other service.
- **Requirement**: The licensee and/or authorised person must ensure that: (a) all reasonable steps are taken to distinguish information about the licensable healthcare service from information about the other service; (b) the other service must be clearly identified as not being a licensable healthcare service; and (c) all information about the other service must be clearly identified or labelled as relating to a service that is not a licensable healthcare service.
- While information about licensable healthcare services can appear in the same advertisement/webpage as information about the “unlicensed services”, steps should be taken to distinguish the different information (e.g. different colours/font sizes, borders, different pages, different sections/modules of a webpage or an app with appropriate language to highlight the status of the “unlicensed services”).

Regulation 14: Display of testimonials

[ENHANCED] Prohibition on the use of patient reviews or testimonials which involve valuable consideration (e.g. paid / sponsored reviews) in advertisements

- **Rationale**: Medical advertising must be held to high standards to maintain the public trust in the profession. Hence, its overarching aim is to help the public make informed healthcare choices, and should not seek to promote the healthcare service or unduly influence members of the public to consume it.
- In that light, and in line with the Singapore Medical Council's Ethical Code and Ethical Guidelines for medical practitioners, licensees should not ask or induce their patients or anyone to write positive reviews or testimonials, as that may mislead consumers into thinking that the reviews or testimonials are fully independent of the licensee, when there is in fact underlying commercial interest.
- **Application**: This will apply to all reviews or testimonials which are sponsored or otherwise involve any exchange of valuable consideration (e.g. discounted service, prioritized treatment, special invitation, complimentary favour etc.)
- **Requirement**: Advertisements of such nature will not be allowed. They should neither be published in any media, nor displayed within the licensed premises or conveyance.

Regulation 14: Display of testimonials

[ENHANCED] Exception provided for specified licensees to publish and disseminate a testimonial or endorsement about its services

- **Rationale:** The intent is to allow licensees that are charities to disseminate or distribute these corporate publications containing testimonials or endorsements to their donors, to show their donors the work that was done with the donated monies.
- **Requirement:** A specified licensee may publish any testimonial or endorsement about the services provided by the specified licensee in any of the specified licensee's corporate publications that is disseminated or distributed only to any of the following persons:
 - a. a person who has given or may give money or other property for the benefit of the specified licensee;
 - b. a person who has participated in the charitable activities of the specified licensee as a volunteer.

Who does it apply to:

“Specified licensee” means a licensee that is —

- (a) an exempt charity within the meaning given by section 2(1) of the Charities Act (Cap. 37); or
- (b) a charity registered with the Commissioner of Charities under section 5 of the Charities Act.

Regulation 15: Advertising of promotional programme

[ENHANCED] Exception for specified licensees to advertise their free and/or promotional programmes

- **Rationale:** To allow licensees that are charities to advertise promotional programmes (e.g. free treatment)
 - Aligned with objectives of charitable licensees (e.g. to provide free services to the underprivileged).
- **Requirement:** Specified licensees may do so if it is a programme undertaken that satisfies all of the following conditions:
 - a. the programme relates to the provision of the licensable healthcare service by the specified licensee for no charge or a charge that is lower than the charge normally payable for that service;
 - b. the specified licensee must not use the advertisement of the programme to solicit for new patients.

Who does it apply to:

“Specified licensee” means a licensee that is —

- (a) an exempt charity within the meaning given by section 2(1) of the Charities Act (Cap. 37); or
- (b) a charity registered with the Commissioner of Charities under section 5 of the Charities Act.

Regulation 16: Hyperlinks

[ENHANCED] Where a licensee becomes aware of any non-compliant hyperlinks, the licensee must take all reasonable steps to procure the rectification or withdrawal of the non compliant hyperlink and to prevent its recurrence.

- **Requirement:** Generally, the onus is on the licensee to take steps to rectify/withdraw the non-compliant hyperlink, regardless of how the licensee comes to be aware that the hyperlink is not compliant.
 - Where the non-compliant hyperlink is published by the authorised person, the licensee must take all reasonable steps to ensure and verify that the authorised person carries out the rectification/withdrawal. The authorised person must also inform the licensee of the steps the authorised person has taken.
 - If, despite being informed by the licensee, the authorised person does not take reasonable steps to rectify/withdraw the non-compliant hyperlink, the authorised person commits an offence under this Regulation.

Authorised persons include:

Any person appointed as an agent to advertise healthcare services and provide inputs to the advertising content / strategy / execution on behalf of licensees (e.g. employees of the licensee, third-party administrators).

Regulation 17: Compliance with Regulations

[NEW] Where a licensee becomes aware of any non-compliant advertisement, the licensee must take all reasonable steps to procure the rectification or withdrawal of the non compliant advertisement and to prevent its recurrence.

- **Requirement:** Generally, the onus is on the licensee to take steps to rectify/withdraw the non-compliant advertisement, regardless of how the licensee comes to be aware that the advertisement is not compliant.
 - Where the non-compliant advertisement is published by the authorised person, the licensee must take all reasonable steps to ensure and verify that the authorised person carries out the rectification/withdrawal. The authorised person must also inform the licensee of the steps the authorised person has taken.
 - If, despite being informed by the licensee, the authorised person does not take reasonable steps to rectify/withdraw the non-compliant advertisement, the authorised person commits an offence under this Regulation.

Authorised persons include:

Any person appointed as an agent to advertise healthcare services and provide inputs to the advertising content / strategy / execution on behalf of licensees (e.g. employees of the licensee, third-party administrators).

Regulation 17: Compliance with Regulations

SCENARIO	WHO IS LIABLE?	
	LICENSEE	AUTHORISED PERSON
The advertisement is published on an unapproved media (e.g. billboards at MRT stations)	Liable	Liable, if applicable
The contents of the advertisement are not compliant with the Regulations (e.g. factually inaccurate)	Liable	Not Liable
Publication of a hyperlink to the licensee's website that deprecates a licensable healthcare service	Liable	Liable, if applicable
Licensee is aware that there is a non-compliant advertisement published by an authorised person. The licensee has informed the authorised person to take it down but the authorised person does not.	Not Liable	Liable
Authorised person is aware that there is a non-compliant advertisement published by the licensee. The authorised person has informed the licensee to take it down, but the licensee does not.	Liable	Not Liable

SUMMARY

- Licensees are ultimately responsible and will be held accountable for all advertisements for licensable healthcare service which they provide.
- The onus remains on the licensee to ensure that the advertisement conducted in conjunction with a third party, such as marketing companies, complies with the Advertisement Regulations.
- Therefore, all licensees are to familiarise themselves with the Advertisement Regulations and Explanatory Guidance to ensure that their advertisements comply with the requirements stipulated in the Regulations.