



Guidelines for the Determination of Medical Advertisements (Draft for Opinions)¹

Authority: **State Administration Market Regulation**

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1. In order to effectively maintain order in the medical advertisement market, safeguard the public's right to informed medical choices and protect the legitimate rights and interests of consumers, these guidelines are formulated in accordance with the *Advertising Law*, the *Administrative Measures for Internet Advertising*, the *Administrative Measures for Medical Advertisements* and other relevant laws and regulations.

2. A medical advertisement refers to any advertisement that directly or indirectly introduces a medical institution or medical services through certain media and forms. Except for legally established medical institutions, no organization or individual may independently or through others publish medical advertisements. The market supervision and administration departments shall determine whether content constitutes a medical advertisement by comprehensively considering factors such as the subject releasing medical information, its content, the channels through which it is released and the methods of dissemination.

3. Information released by medical institutions for the purpose of medical research—such as recruiting research participants or clinical trial patients—does not constitute advertising.

4. Activities carried out by medical institutions such as triaging patients, guiding them to receive treatment, or responding to patient inquiries and providing treatment guidance during online consultations in accordance with relevant regulations on internet-based medical services, do not constitute advertising.

5. When medical institutions use internet platforms through user accounts to present objective information that patients must know—such as the name, address, consultation hours, medical staff profiles, medical services offered, treatment processes, insurance policies, pricing, etc.—in a standardized format, it does not constitute an advertisement. The aforementioned information must comply with regulations concerning the public disclosure of information by healthcare institutions and administrative transparency within medical institutions.

6. If medical institutions promote price discount activities or other promotional information, such activities must comply with applicable price-related laws and regulations. Any other provisions specified by relevant laws and administrative regulations shall apply accordingly.

¹ Translated by Health Law Asia – Pharmaceutical, Medical Device, and Cosmetics Law



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7.If medical institutions publish information about the institution's profile, public service responsibilities, key departments, medical staff, medical services, treatment processes, health education, insurance, pricing, fees, complaints, and other related content through the institution's own service location, official website, legally approved mobile apps, or certified "self-media" platforms (that meet the platform's certification standards), and such content does not fall within the scope of prohibited activities as outlined in Article 6, it does not constitute an advertisement.

During the process of information disclosure by medical institutions, if any of the following circumstances occur, it should be recognized as publishing a medical advertisement:

(1) Subjective Promotion of the Institution's Facilities and Equipment: The institution promotes its medical environment, medical equipment, or other hardware in a subjective manner that could be interpreted as advertising;

(2) Subjective Evaluation or Guarantee of Medical Services: The institution provides subjective evaluations or guarantees regarding the medical techniques, processes or outcomes, which serves to promote the institution;

(3) Comparison with Other Medical Institution

(4) Any other information released with the purpose of promoting the medical institution itself.

8. Medical institutions and their medical staff, when conducting health education and popular science (health science) activities in forms such as text, images, short videos or live broadcasts in accordance with health science requirements, will not be considered advertising as long as the activities do not fall under the conditions specified in Article 9 of these guidelines. To ensure the objectivity and authenticity of health science information, it is permissible to introduce the names, titles, primary institutions, medical institution names and specific department names of medical staff conducting the education.

9. However, when medical institutions or their medical staff conduct health science activities, if any of the following circumstances occur, the activity should be considered as disguised medical advertising under the guise of health education:

(1) When the medical institution promotes its advantages in medical technology, equipment or treatment outcomes as part of health education, indirectly promoting the specific institution.

(2) Explicitly or implicitly stating that patients will receive better safety guarantees, treatment results or price discounts at a specific medical institution.

(3) Recommending specific medical services offered by the institution or another

(4) Using patient case studies or examples to indirectly recommend a particular medical institution



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(5) Any other form of content that serves to promote the institution or its services under the guise of health education.

10. Except for content that should be recognized as advertising according to these guidelines, errors or misleading content that appear in medical institutions' information disclosure or health science popularization activities will not be treated as medical advertisements for enforcement purposes.

If the market supervision and administration departments discover such issues, they may report the matter to the health administration departments (including traditional Chinese medicine management departments), who will order the relevant medical institutions to make timely corrections.

11. During the supervision of medical institutions' information disclosure and health science popularization, if the health administration departments find that a medical institution is covertly publishing medical advertisements, they are obligated to act according to their duties and report the suspected advertising violations to the market supervision and administration departments.

12. For content that should be recognized as a medical advertisement, the market supervision and administration departments will carry out supervision according to the relevant advertising laws and regulations.

After handling the case, the market supervision and administration departments must report the medical institution's advertising violations to the health administration departments or medical advertisement review bodies, who will handle the case in accordance with the *Medical Advertisement Management Measures* and other related regulations.

13. Medical advertisements falling under any of the following situations may be considered to involve serious violations as outlined in Article 20 of the *Medical Advertisement Management Measures*:

(1) Advertisements that result in death, serious injury, disfigurement, or other serious risks to the health or life of individuals.

(2) If the advertisement is suspected to constitute a false advertising crime and needs to be referred to the judicial authorities.

(3) Advertising or promoting non-medical institutions that have not obtained the required *Medical Institution Practice License* or have not registered their clinics.

(4) Promoting medical services or treatment projects that have not been officially registered under the relevant medical treatment categories.

(5) If an institution has published illegal medical advertisements twice within three years, leading to serious adverse social effects.



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(6) Any other situation that should be considered a serious violation in accordance with relevant regulations.

Draft Explanation for the "Guidelines for the Determination of Medical Advertisements" (Public Comment Draft)

In order to effectively distinguish between medical advertising, the disclosure of medical information, and the dissemination of health-related knowledge; to further regulate the medical advertising market; and to safeguard the legitimate rights and interests of consumers, the State Administration for Market Regulation, in collaboration with relevant departments, has drafted the *Guidelines for the Determination of Medical Advertisements* (hereinafter referred to as the "Guidelines"). The following is an explanation of the relevant provisions:

1. Necessity of Drafting the "Guidelines"

With the development of the economy and the improvement of living standards, the public's demand for medical services has become increasingly diversified. There is also a growing demand to obtain medical information through channels such as medical advertisements. However, due to the similarities in the forms of medical advertisements, medical information and health education content, it has become difficult to effectively differentiate them in regulatory practices. On one hand, this difficulty creates challenges for medical institutions in carrying out normal medical information disclosure and health science education activities. On the other hand, it provides an opportunity for some wrongdoers to disguise illegal medical advertisements under the guise of information disclosure and health education.

Therefore, there is an urgent need to introduce the "Guidelines" to further refine the principles and standards for identifying medical advertisements. This will not only help in regulating behaviors such as disguised medical advertisements but also prevent interference with legitimate medical information disclosure and health science education efforts.

2. Drafting Process

In 2023, the State Administration for Market Regulation (SAMR) initiated the drafting of the *Guidelines*. In 2024, the SAMR sought opinions from provincial-level market supervision departments. Multiple meetings were held to facilitate focused discussions among provincial market supervision departments and feedback was gathered from relevant business entities. Additionally, written opinions were solicited from the National Health Commission (NHC) and the National Administration of Traditional Chinese Medicine (NATCM).

Based on thorough feedback and suggestions from various stakeholders, the *Guidelines* were revised and improved, resulting in the current draft for public comment.

3. Main Contents



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The *Guidelines* are planned to be jointly issued by the State Administration for Market Regulation (SAMR), the National Health Commission (NHC) and the National Administration of Traditional Chinese Medicine (NATCM). The document consists of 13 articles, covering the following main points:

Article 1 to Article 2: These articles define the purpose of the *Guidelines*, the definition of medical advertisements and the principles for determining what constitutes a medical advertisement. They also clarify that only legally established medical institutions are permitted to publish medical advertisements, and no other organizations or individuals are allowed to do so.

Article 3 to Article 4: These articles specify that medical institutions' release of research-related or triage and medical guidance information does not constitute advertising.

Article 5 to Article 7: These articles outline when the release of information such as the institution's name, address, consultation hours, medical service offerings, etc., does not constitute advertising and under what conditions it would be recognized as publishing a medical advertisement.

Article 8 to Article 9: These articles provide details on situations where health education and popular science activities by medical institutions and their staff do not constitute advertising, as well as situations where these activities may be disguised as medical advertising.

Article 10 to Article 12: These articles clarify how to recognize and handle errors or misleading content in medical institutions' information disclosure or health education efforts. They also emphasize the need for coordination between market regulation departments and health administration bodies (including traditional Chinese medicine management departments) during supervision.

Article 13: This article provides further details on serious violations of medical advertising laws and outlines specific circumstances that would be classified as severe violations.



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Medical Advertising Regulatory Work Guidelines

(Public Comment Draft)

1. To further regulate the work of market supervision departments in the supervision of medical advertisements, maintain the order of the medical advertising market and promote the healthy and orderly development of the medical industry, these guidelines have been developed in accordance with the *Advertising Law*, *Administrative Penalty Law*, *Internet Advertising Management Measures*, *Medical Advertising Management Measures*, and other relevant laws and regulations.

2. Except for legally established medical institutions, no other units or individuals are allowed to publish medical advertisements on their own or through third parties.

3. When investigating and handling illegal medical advertising cases, the market supervision and regulation authorities shall conduct a comprehensive assessment of the facts, nature, circumstances, and degree of social harm of the violations, ensuring that the punishment is proportionate to the offense.

3. If a medical advertisement is released without prior advertisement review, but the advertisement content is limited to the medical institution's name, address, ownership structure, medical institution category, treatment specialties, bed count, consultation hours and contact number, and is consistent with the institution's practice license (or registration), no administrative penalty will be imposed on the parties involved in accordance with the *Administrative Penalty Law*. However, if the information does not align with the institution's practice license (or registration) and substantially misleads consumers or patients in making medical decisions, the relevant parties will be investigated and penalized according to the *Advertising Law*.

If the medical institution's name in the advertisement differs from its first legal name, or if the advertisement appears to impersonate a well-known hospital, relevant laws and regulations will be applied to investigate and penalize the parties involved.

4. In cases where medical advertisements are published without undergoing advertisement review, but the content is limited to the medical institution's official name, address, ownership type, institution category, medical departments, number of beds, consultation hours, and contact information, and such information is consistent with the institution's practice license (or registration) details, a decision of no administrative penalty may be made in accordance with the provisions of the *Administrative Penalty Law*.

However, if the content is inconsistent with the institution's licensed (or registered) information and is likely to substantially mislead consumers or patients in their choice of medical services, the case shall be handled in accordance with the relevant provisions of the *Advertising Law*. If the name of the medical institution used in the advertisement differs from the institution's official name and appears to imitate a hospital of certain influence, the case shall be investigated and handled in accordance with relevant laws and regulations.



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5. If the advertisement review certificate for a medical advertisement expires and the advertisement continues to be published or is reissued, but the content of the advertisement is consistent with the approved advertisement review certificate and the medical institution's practice license (or registration details), then no administrative penalty will be imposed on the parties involved, in accordance with the *Administrative Penalty Law*.

6. If a medical advertisement follows the approved media category for advertisement review but the content slightly differs from the approved advertisement sample, the following minor changes will generally not be considered as "inconsistent" with the reviewed advertisement:

- (1) Adjusting the Background Color of the advertisement.
- (2) Changing the Font or Color of the advertisement, if there is no misleading effect.
- (3) Adjusting the Aspect Ratio of images in the advertisement.
- (4) Reducing the Content of the advertisement, if there is no misleading effect.
- (5) Changing or Adding the Medical Institution's Contact Number, if the contact number is accurate and truthful.

7. If the content of a medical advertisement does not exceed the scope of information that medical institutions are required to publicly disclose by the health administration authorities, and there are legally valid documents proving such information, no administrative penalty will be imposed on the relevant parties in accordance with the *Administrative Penalty Law*.

8. If a medical advertisement falls under any of the following circumstances, the parties responsible may be subject to a mitigated penalty, a reduced penalty, or exemption from penalty in accordance with the *Administrative Penalty Law*:

8. In cases where a medical advertisement falls under any of the following situations, the relevant parties may receive a lighter penalty, a reduced penalty or no penalty in accordance with the *Administrative Penalty Law*:

- (1) Promoting the name of the same medical consortium or the name, address and contact number of other medical institutions within the consortium, as long as the information matches the actual situation.
- (2) Displaying real images of the medical institution, provided the images accurately reflect the actual situation.
- (3) Indicating the specific location of the medical institution using either images or text, as long as the information is truthful and accurate.
- (4) Using correct and accurate medical terminology to describe the medical institution's legally registered treatment specialties and related medical services.



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(5) If the advertisement contains other information beyond what is required to be disclosed by the health administration authorities, all such content is supported by legally valid documentation.

9. If the market supervision departments decide not to impose an administrative penalty on the relevant parties, they should provide educational guidance to the parties involved, in accordance with the relevant provisions of the *Administrative Penalty Law*.

10. Any use of spokespersons to recommend or endorse medical institutions or medical services shall be investigated and dealt with in accordance with Article 58 of the Advertising Law.

If a medical advertisement uses fabricated or misappropriate names or images of patients, doctors, medical institutions, or research institutes as spokesperson, this may be considered false advertising, and the relevant parties will be penalized under Article 55 of the *Advertising Law*. If the situation is serious and involves criminal elements, the case may be transferred to law enforcement.

11. If a medical advertisement makes assertions or guarantees about efficacy, safety or cure rates (such as claiming a guaranteed cure or treatment success rate), market supervision departments will handle it according to Article 58, Item 1 of the *Advertising Law*. If the content relates to treating cancer, terminal illnesses or other major complex diseases, severe penalties will be applied in accordance with the law.

If the advertisement falsely distorts scientific theories, research data, or makes unsubstantiated claims about treatment efficacy, safety, cure rates or success rates, it may be considered false advertising under Article 55 of the *Advertising Law*. If the situation is severe and may involve criminal conduct, it will be transferred to law enforcement.

12. In medical advertisements, fabricating facts or making false or misleading statements about important information that affects consumers' or patients' choices—such as the affiliation of medical institutions, the rating of medical institutions, traditional Chinese medicine mentorship, or key diagnostic and treatment technologies—may be recognized as false advertising based on the actual situation and dealt with in accordance with Article 55 of the Advertising Law; if the circumstances are serious and suspected of constituting a crime, the case shall be transferred to public security authorities in accordance with the law.

13. If a medical aesthetic advertisement includes content that creates appearance-related anxiety, it will be handled according to Article 9, Item 7 of the *Advertising Law*. If medical aesthetic advertising targets minors or promotes medical aesthetic projects that do not treat diseases, it may be deemed a violation of Article 10 of the *Advertising Law*.

14. The use of absolute terms in medical advertisements shall be handled in accordance with the relevant regulations, including the “Guidelines for the Enforcement of Absolute Terms in Advertising.”



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15. If a single medical advertisement contains two or more (including two) violations as specified in Articles 4 to 14 of these Guidelines, and they constitute a single unlawful act, no more than one administrative fine shall be imposed. If they constitute multiple separate unlawful acts, penalties may be combined as appropriate based on the circumstances.

16. If non-medical institutions or their personnel claim in advertisements that they can provide medical diagnosis or treatment services, this may be considered illegal medical practice (unlicensed medical practice). Such cases should be transferred to health administration authorities for further action in accordance with relevant laws.

17. Internet platforms should strengthen internal management and fulfill their obligations to verify the identities of platform-based operators engaged in medical service projects, as well as self-media accounts that produce medical service-related content.

If an internet platform operator fails to perform the verification obligations specified in the preceding paragraph and provides internet information services for publishing medical advertisements by entities or individuals other than legally established medical institutions, it shall be investigated and dealt with in accordance with Article 63 of the Advertising Law. In serious cases, the internet platform's relevant business operations shall be suspended or referred to by the competent authorities for suspension in accordance with the law.



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Drafting Note on the “Guidelines for the Supervision of Medical Advertising (Consultation Draft)”

To further regulate the supervision of medical advertising by market regulation departments and maintain a fair and orderly medical advertising market, the State Administration for Market Regulation has drafted the *Guidelines for the Supervision of Medical Advertising* (hereinafter referred to as the “Guidelines”). The relevant background is explained as follows:

1. Necessity of Drafting the Guidelines

In recent years, the medical service industry has developed rapidly. The public's demand for diversified medical services and for information obtained through advertising has significantly increased, and medical institutions' willingness and objective need to engage in advertising have become more pronounced. At the same time, certain provisions in the 2007 *Measures for the Administration of Medical Advertisements*, particularly those involving comparative principles, have led to mechanical enforcement practices. This has, to some extent, weakened efforts to crack down on illegal medical advertising.

It is therefore urgent to develop the *Guidelines* to: Clarify the principles of supervision and specific regulatory rules; Standardize the exercise of discretionary power; Better allocate regulatory resources to effectively target illegal medical advertisements with significant social harm and strong public complaints; Allow for lighter, mitigated or waived administrative penalties for advertisements with no obvious social harm or minor violations. The goal is to firmly protect the public's vital interests, while creating a fair and just business environment and promoting the sustainable and healthy development of the medical industry.

2. Drafting Process

In 2024, the State Administration for Market Regulation (SAMR) initiated the drafting of the *Guidelines*. Research missions were conducted in multiple regions, and several meetings were held to solicit feedback on the *Guidelines* from local market regulation authorities and relevant business entities. Additionally, written opinions were collected from the National Health Commission. Based on the extensive input and suggestions received from various parties, SAMR refined and improved the *Guidelines*, resulting in the current consultation draft.

3. Main Content

The *Guidelines* consist of 17 articles, covering the following key areas:

Articles 1 to 3: Define the purpose of the *Guidelines*, identify the entities responsible for publishing medical advertisements, and clarify that market regulation authorities should consider multiple factors in enforcement to ensure that penalties are proportionate to violations.



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Articles 4 to 5: Provide detailed classifications for handling unapproved medical advertisements, specifying situations in which publishing such advertisements—either without prior approval or after the approval has expired—may not warrant punishment.

Article 6: Clarifies specific circumstances that generally do not constitute a violation for “inconsistency with approved advertising samples.”

Articles 7 to 9: Detail the conditions under which parties involved may not be penalized or may receive reduced or mitigated penalties. Articles 7,8 and 9 state that market regulation departments, when deciding not to penalize, must carry out education and guidance in accordance with the law.

Articles 10 to 12: Regulate the use of advertising endorsements, the identification and handling of false or misleading medical advertisements, and the coordination between administrative enforcement and criminal investigation.

Articles 13 to 14: Address enforcement against medical beauty advertisements that create anxiety or target minors, as well as the use of absolute or superlative terms in medical ads.

Articles 15 to 16: Refine and reiterate the principles for dealing with single vs. multiple violations in medical advertising and specify how to handle unlicensed medical practice if suspected.

Article 17: Defines the responsibilities and obligations of internet platforms regarding medical advertisement oversight.



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