

CAP guidelines for BAaC members

We have produced the following guidelines to assist our members in understanding their responsibilities when advertising. Contained in this document is the following information:

- 1 What the BAaC Code of Professional Conduct says about advertising
- 2 What are the ASA and CAP?
- 3 The Advertising Codes
- 4 What the Codes mean and the conditions which may only be advertised by suitably qualified health professionals
- 5 What treatment claims are likely to be a problem?
- 6 What treatment claims are likely to be acceptable?
- 7 Where to go to for help

1 What the BAaC Code of Professional Conduct says about advertising

All members of the BAaC are bound by its codes. The Code of Professional Conduct sets out what is expected of you as a member.

Paragraph 38 of the Code of Professional Conduct states:

Advertising standards

- 38 All advertising must be legal, decent, honest and truthful and must conform to relevant rules in the Committee of Advertising Practice (CAP) Codes, as well as the current guidelines of the BAaC. Your advertisements may include information about any non-acupuncture qualifications and special interests that you may have, but must not make claims of superiority or disparage professional colleagues or other professionals. You must not use the BAaC logo in any advertising without the explicit authority of the BAaC. This does not include bloc advertisements in Yellow Pages or Thomson Directory.

2 What are the ASA and CAP?

The United Kingdom advertising industry is governed by Advertising Codes of Practice. The Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) own and write the Advertising Codes. These are administered by the Advertising Standards Authority (ASA), which is the UK's independent body that endorses and administers the Code to ensure that advertisements are legal, decent, honest and truthful.

The ASA investigates and adjudicates on complaints about broadcast and non- broadcast advertisements, as well as monitoring and taking action against misleading, harmful or offensive advertisements, sales promotions, and direct marketing. It also carries out research on many subjects related to advertising regulation.

The ASA's remit extends to advertising across all media. The types of ads they deal with include:

- Magazine and newspaper advertisements
- Radio and TV commercials (not programmes or programme sponsorship)
- Television Shopping Channels
- Advertisements on the Internet, including:
 - banner and display ads
 - paid-for (sponsored) search
 - Marketing on companies' own websites and in other space they control like social networking sites Twitter and Facebook
- Commercial e-mail and SMS text message ads
- Posters on legitimate poster sites (not fly posters)
- Leaflets and brochures
- Cinema commercials
- Direct mail
- Door drops and circulars
- Ads on CD ROMs, DVD and video, and faxes
- Sales promotions, such as special offers, prize draws and competitions wherever they appear.
- Online behavioural advertising. The ASA now regulates Online Behavioural Advertising (OBA). OBA is the practice of collecting information from web browsers so that it can be used to present online advertisements that are more relevant to the user of a particular computer. The rules the ASA oversee require businesses to make clear when they are collecting and using information for OBA and require them to provide a tool so that the recipient can choose not to receive it.

The ASA has a number of sanctions it can apply. If an advertisement breaks the Code, the marketer responsible is told to amend or withdraw it, which most willingly do. The principal sanction is adverse publicity from the adjudications published each Wednesday; this is damaging to the advertiser and serves to warn the public.

If an advertiser refuses to comply with the ASA, further sanctions are possible, however, this is normally reserved for advertisers who fail to comply with the ASA's adjudication. Both CAP and BCAP provide advice to advertisers and work with the broadcast pre-clearance bodies to ensure compliance with the rules and ASA adjudications.

3 The Advertising Codes

The Advertising Codes, whilst mandatory for all, are self-regulatory and lay down rules for advertisers and media owners to follow. These include general rules that state that advertising must be responsible and must not mislead or offend. There are specific rules that cover advertising to specific sectors; these are, but not limited to, children and advertisements for alcohol, gambling, motoring, health, and financial products.

The sections of the Rules which are of particular importance to BAcC members are:

- 12.1** Objective claims must be backed by evidence, if relevant consisting of trials conducted on people. If relevant, the rules in this section apply to claims for products for animals. Substantiation will be assessed on the basis of the available scientific knowledge.

Medicinal or medical claims and indications may be made for a medicinal product that is licensed by the MHRA or EMEA, or for a CE-marked medical device. A medicinal claim is a claim that a product or its constituent(s) can be used with a view to making a medical diagnosis or can treat or prevent disease, including an injury, ailment or adverse condition, whether of body or mind, in human beings.

Secondary medicinal claims made for cosmetic products as defined in the appropriate European legislation must be backed by evidence. These are limited to any preventative action of the product and may not include claims to treat disease.

- 12.2** Marketers must not discourage essential treatment for conditions for which medical supervision should be sought. For example, they must not offer specific advice on, diagnosis of or treatment for such conditions unless that advice, diagnosis or treatment is conducted under the supervision of a suitably qualified health professional. Accurate and responsible general information about such conditions may, however, be offered.

Health professionals will be deemed suitably qualified only if they can provide suitable credentials; for example, evidence of: relevant professional expertise or qualifications; systems for regular review of members' skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications.

- 12.3** Marketers offering individual treatments, especially those that are physically invasive, may be asked by the media and the ASA to provide full details together with information about those who supervise and administer them. Practitioners must have relevant and recognised qualifications. Marketers should encourage consumers to take independent medical advice before committing themselves to significant treatments, including those that are physically invasive.

- 12.4** Marketers must not confuse consumers by using unfamiliar scientific words for common conditions.

- 12.5** Marketers inviting consumers to diagnose their minor ailments must not make claims that might lead to a mistaken diagnosis.

- 12.6** Marketers should not falsely claim that a product is able to cure illness, dysfunction or malformations.

- 12.7** References to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as "cure" and "rejuvenation" are not generally acceptable, especially for cosmetic products.

- 12.8** Marketers must hold proof before claiming or implying that a minor addiction or a bad habit can be treated without effort from those suffering.

12.9 Marketers must not encourage consumers to use a product to excess and must hold proof before suggesting their product or therapy is guaranteed to work, absolutely safe or without side-effects.

12.10 Marketing communications must not suggest that any product is safe or effective merely because it is “natural” or that it is generally safer because it omits an ingredient in common use.

4 What the Codes mean and the conditions which may only be advertised by suitably qualified health professionals

The Advertising Codes apply to all advertisers, and the BAcC, in common with other similar professional bodies, requires its members to adhere to the Codes. The Codes say that marketers must not discourage essential treatment for conditions for which medical supervision should be sought. They must not offer specific advice on, diagnosis of or treatment for such conditions unless that advice, diagnosis or treatment is conducted under the supervision of a suitably qualified health professional. Accurate and responsible general information about such conditions may, however, be offered.

CAP which works closely with the ASA has recently advised the BAcC that the ‘ASA is yet to consider whether, for those practitioners who are registered with an appropriately accredited body, they are likely to be considered to be suitably qualified for the purposes of the Code such as that provided by the Professional Standards Authority Voluntary Register Scheme, it seems likely that the ASA will consider such credentials to be appropriate evidence of suitable qualification’. What this means is that members of the BAcC are likely to be regarded as suitably qualified. However, this does not mean that the conditions listed for which ‘suitably qualified medical advice’ should be sought can be advertised without be able to produce robust evidence to substantiate the claims made in relation to them.

The list of conditions for which 'suitably qualified medical advice' should be sought is as follows:

Addictions

Alcoholism (Dependence)

Age related Macular Degeneration, AMD Anaemia

Angina Anorexia

Arthritis [c.f. Arthritic Pain (M)] Asthma

Attention Deficit Hyperactivity Disorder, ADHD Autism

Blood Pressure, High Bronchitis

Bulimia Cancer Cataracts

Crohn's Disease

Circulation, Poor [c.f. Circulatory Problems] Chronic Obstructive Airway Disease, COAD

Compulsions (P)

Depression [c.f. Feeling Down or Feeling Blue] (P) Diabetes

Diverticulitis Dizziness Drowsiness

Drug Addiction (Substance Abuse) Ear Disorders, Serious

Eating Disorders Emphysema Epilepsy

Erection Problems or Erectile Dysfunction [c.f. Temporary Erection Problems, Temporary

Erectile Dysfunction]

Eye Disorders, Serious Fibroids

Fits Frigidity (P)

Gall Bladder Disorder Gall Stones

Genito-Urinary Disorders Glaucoma
Gout
Hiatus Hernia Heart Disease
Herpes Zoster (Shingles)
Human Immunodeficiency Virus, HIV
Hypertension Impotence [c.f. Temporary Erection Problems, Temporary Erectile Dysfunction]
Infectious diseases
Infertility [c.f. Sexual Counselling] Insomnia, Chronic
Jaw Joint Dysfunction Kidney Disorders Learning Difficulties Leukaemia
Malignant Diseases Mania (P)
Malaria
Memory problems or Memory Lapses Menopausal Symptoms

Menstruation, Regulation of Metabolic Diseases
Migraine [c.f. Migraine Headaches] Multiple Sclerosis, MS
Muscular Dystrophy Myopathy
Obesity [c.f. Diet, Trouble Sticking to] Obsessions (P)
Obsessive Compulsive Disorder, OCD (P) Osteoporosis
Overdose Pancreatitis
Paralysis Parkinson's Disease Prostate Problems
Psoriasis [c.f. Skin Problems] Psychosis (P)
Polycystic Ovary Syndrome Respiratory Diseases Schizophrenia
'Senility'
Sexually Transmitted Diseases Skin Disorders, Serious
Spinal Injuries Stroke
Suicidal thoughts (P)
Thrush, Oral [c.f. Thrush, Vaginal] Tonsillitis
Tuberculosis Ulcer, Gastric Under-eating Whiplash

Conditions for which evidence could be sought by the ASA or CAP

Aches and Pains (M) Acid Indigestion Acidity, Stomach Acne
Allergic Rhinitis Alopecia (Hair Loss) Anxiety (P)
Arthritic Pain (M) Athlete's Foot Backache (M, Ac) Back Pain (M, Ac)
Bacterial Vaginosis, BV Bedwetting (P) Bronchial Congestion

Bunion Calluses Candida Catarrh Chilblains
Circulatory Problems, Local or Minor (M) [c.f. Poor Circulation] Cold
Cholesterol, High
Chronic Fatigue Syndrome (Formerly ME) (P) Colic
Concentration (P) Confidence (P) Constipation Conjunctivitis Cough
Cramp (M) Cystitis Dandruff
Dental Pain (Ac) Dermatitis Diarrhoea, Acute
Diet, Trouble Sticking to (P) [c.f. Obesity] Digestion Problems (M)
Dyspepsia Earache Eczema
Eczema, Stress-related (P) Emotional Problems (P) Enuresis (Bedwetting) (P) Erection,
Improved
Erection Problems, Temporary; Erectile Dysfunction, Temporary [c.f. Impotence, Erection
Problems, Erectile Dysfunction]
Fears (P)
Feeling Down or Feeling Blue (P) [c.f. Depression] Fever
Fibromyalgia (Fibrositis) (M) Flatulence
Fluid Retention Foot Odour
Frozen Shoulder (M) Gastric Reflux Gastroenteritis Gingivitis
Glue Ear Grief (P) Guilt (P) Haematoma

Haemorrhoids Halitosis Hayfever

Headaches (P, Ac) Heartburn

Herpes Simplex Hoarseness Impetigo Indigestion

Indigestion, Nervous Inflammation Influenza

Insomnia

Irritable Bowel Syndrome, IBS (H) Joint Pains (M)

Jumpy (P) Lethargy (P) Libido, Low (P) Lumbago (M)

Menopause Menstrual Pain Migraine Headache [c.f. Migraine] Motion Sickness

Mouth Ulcers Muscle Spasms (M)

Muscle Tension (M, P) Nailbiting (P)

Nails, Fungal infections Nappy Rash

Nausea (Ac) Neck Ache (Ac) Neuralgia (M) Numbness Panic Attack (P) Period Pain Phobias (P) Piles

Pins and Needles

Pre-menstrual Tension or Pre-menstrual Syndrome (P) Relationship Problems (P)

Relax, Inability to (P, M) Rheumatic Pain (M, Ac) Rheumatism (M) Ringworm

Sexual Counselling (P) Sciatica (M)

Sinuses, Congested Sinusitis

Skin Problems [c.f. Psoriasis] Skin Problems, Stress-related (P) Sleep, Trouble Getting to (P) Sleeplessness, Intermittent (P) Smoking Cessation (P, H) Snoring (P)

Spasms (M)

Sports Injuries, Minor (M) Stammering (P)

Stomach, Upset Stress (P, H) Tension (P, M)

Tiredness

Thrush, Vaginal [c.f. Thrush, Oral] Travel Sickness

Verrucae

Water Retention Warts

Wind

(Practitioners of the disciplines represented by these capital letters can probably treat those listed ailments or medical conditions that display the same capital letter: P Psychology (for example, psychotherapy, behavioural therapy, counselling

M Manipulation (for example, osteopathy, physiotherapy, chiropractic) H Hypnotherapy

Ac Acupuncture)

NB The list of conditions is not exhaustive, and it should not be assumed that because a condition is not on the list it is safe to advertise it.

5 What treatment claims are likely to be a problem?

The ASA is likely to expect all claims of efficacy to be supported by robust evidence in the form of clinically controlled trials.

In 2013 the ASA investigated a complaint about two leaflets which made efficacy claims for Traditional Chinese Acupuncture and Group Acupuncture. It stated "Some of the conditions we treat include: - Women's health, including disturbances of the menstrual cycle, gynaecological disorders - Men's health, including prostatitis, urinary disorders, fertility - Emotional issues, stress, anxiety, depression, addictions - Headaches, migraines, tinnitus, dizziness, vertigo - Sleep disturbances - Immune system imbalances, allergies, Herpes zoster (Shingles) - Gastro-intestinal conditions - Musculoskeletal problems including joint pain, back pain - Upper respiratory disorders e.g. sinusitis, asthma - Hypertension (High blood pressure)".

Although the evidence demonstrated that acupuncture could be effective in the relief of pain associated with some instances, the ASA considered that in relation to the reference to some conditions, the claims in the ad went further than the evidence supported and therefore concluded that the ad was misleading (University College London Hospitals t/a The Royal London Hospital for Integrated Medicine, 12 June 2013).

In 2017, the ASA considered evidence in relation to a number of claims including those which stated that acupuncture could help with fertility support, musculoskeletal problems, headaches, migraines, insomnia and anxiety. Although the advertiser submitted a large amount of evidence, the ASA considered that it was not sufficiently robust to the support those treatment claims.

Marketers occasionally claim that acupuncture can help delay or prevent ageing. To date, neither CAP nor the ASA has seen evidence that acupuncture can slow down, reverse or relieve the superficial signs of ageing or heal scarring. Marketers should not make claims relating to the improvement of the appearance of skin conditions.

Neither CAP nor the ASA has been provided with evidence to demonstrate that hand-held acupuncture and acupressure devices are effective in treating conditions commonly treated with traditional acupuncture. Marketers are reminded to hold robust evidence for any treatment claims (SCD Ltd, 17 April 2013; Alliance International Ltd, 28 January 2009).

6 What treatment claims are likely to be acceptable?

The list of conditions which has so far met the substantiation criteria is extremely limited and is as follows:

- Short-term improvement in the symptoms of overactive bladder syndrome (through electro-acupuncture at the SP6 point)
- Short-term relief of tension type headaches
- Short-term relief of migraine headache
- Short-term relief of chronic low back pain
- Short-term relief of neck pain or chronic neck pain
- Short-term relief from temporomandibular (TMD/TMJ) pain
- Temporary adjunctive treatment for osteoarthritis knee pain

However, the ASA has equally upheld complaints about ads that refer to the above conditions but where it was not made clear that any relief achieved was temporary or “short-term”.

The ASA is likely to accept advertising claims about the sensory effects of acupuncture including claims about well-being or references to “feeling revitalised”, “more positive” or “relaxed”.

Any claim that a particular therapy can treat or cure a medical condition is unlikely to be acceptable unless the advertiser is considered suitably qualified (Rule 12.2) and holds robust evidence to support the efficacy claim (Rule 12.1).

CAP understands that advertisers whose clientele include those who suffer from illness often find it challenging to explain the service they offer while not falling foul of the Code. In this guidance, we have listed some of the types of claims submitted to Copy Advice and demonstrate how small changes can change the acceptability of an ad.

Before	After
"Reflexology can be used by people suffering from any medical condition"	"Reflexology can be enjoyed by people of all ages, from children through to the elderly"
"Aromatherapy massage can help people suffering from insomnia"	"Aromatherapy massage can aid restful sleep"
"I treat people suffering from Cancer and fertility problems"	"Some of my clients include people suffering from Cancer. They find that the soothing, calming and relaxing nature of the therapy assists their emotional wellbeing during this difficult time"
"Many of my clients suffer from depression, especially in winter, and find that Shiatsu can help lift their mood"	"Many of my clients find Shiatsu excellent for improving their mood"
"During a Craniosacral therapy session the therapist relieves any restrictions in the flow of cerebral spinal fluid around the body, thereby alleviating medical conditions including arthritis and many others"	"Craniosacral Therapy is based on the belief that by feeling the intrinsic flow of the craniosacral rhythm the therapist can improve the wellbeing of clients, and help them to relax"

For sensory-type claims, evidence in the form of a testimonial is likely to be acceptable. As with all advertising, the ASA considers claims in the context within which they are made.

7 Where to go to for help

Within CAP there is a [Copy Advice Team](#) which provides a fast, free, and confidential service to help you to create your communications in line with the CAP Code. Their advice is informed and impartial and they aim to provide constructive guidance and help you to find solutions. This advice can give you the reassurance that your advertisement is likely to meet the Codes' requirements. However, if a complaint is made about your advert, the Copy Advice Team will endeavour to ensure that the ASA is aware of the advice given to you.

By submitting your copy/marketing materials you will be alerted to possible Code breaches which will help you to avoid an ASA investigation. The Copy Advice Team ask that you allow enough time in order to make any necessary revisions to your advertising prior to publication.

The [Copy Advice Team](#) can be contacted on [020 7492 2100](tel:02074922100) from [Monday to Friday](#) between [9am and 5pm](#).

Alternatively email advice@cap.org.uk

For further information visit www.cap.org.uk

You can also follow the CAP team on Twitter https://twitter.com/CAP_UK