



British
Acupuncture
Council



A guide to advertising: presenting the evidence

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1 Background

The primary objective of this document is to support members in adhering to the advertising guidelines. This document replaces the Advertising Advice For Members (February 2011).

The BAAC Code of Professional Conduct (2015) states:

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.

Generally speaking, advertising in the United Kingdom is self-regulated, although there are some areas covered by legislation. The Advertising Standards Authority (ASA) is the UK's independent advertising regulator. The ASA makes sure ads across UK media stick to the advertising rules (the Advertising Codes). The Committee of Advertising Practice (CAP) is the sister organisation of the ASA and is responsible for writing the [Advertising Codes](#). CAP also provides a number of services which include a bespoke copy advice service, webinars, e-learning and resource library. In addition to the Codes, the CAP publishes Advertising Guidance which provides guidance on the interpretation of the Advertising Code.

In summary, the CAP creates the Advertising Codes and provides advice, the ASA enforces the Codes.

In the majority of cases, individual BAAC members will interact with the Copy Advice Team. This is a free service that will support you in adhering to the Advertising Codes.

The most important elements of the Codes and Guidance for BAAC members to be aware of are:

- Section 12: The CAP Code the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (Edition 12) (Appendix 1)
- [Health therapies and evidence: Advertising Guidance \(non broadcast and broadcast\), CAP \(no date\)](#)
- [Health, beauty, slimming & medical conditions: Advertising Guidance \(non broadcast\), CAP \(2008\)](#)

- [Health: Acupuncture. Advice online | 26 Feb 2018 \(Appendix 2\)](#)

2 Introduction

Section 3 and 4 of this guide describe how to adhere to the current advertising guidelines. In simple terms, there are a restricted number of conditions that can be directly referenced, and we must also be careful when using terms such as 'treat'. In addition to using this guidance members can make use of the Copy Advice support provided by the CAP. Section 5 gives some examples of text which has been approved the Copy Advice Team.

Sections 6 and 7 provide advice on using testimonials. Section 8 sets out how members should engage with the evidence base on their websites. Section 9 discusses the way in which the list of conditions that we are permitted to reference can be expanded. Finally, section 10, gives advice on face-to-face conversations.

3 Conditions and sensory effects

When making a claim with respect to the potential benefits of acupuncture we will normally be referring to a condition, sign or symptom, or a sensory effect. These fall into one of three categories:

- a Conditions covered by statute
[The Cancer Act 1939](#) prohibits any advertising offering to treat or give any advice in connection with the treatment of cancer. Punishable by fines and imprisonment.
- b Condition covered by self-regulation
 - 1 Conditions for which suitably qualified medical advice should be sought
 - 2 Conditions for which evidence could be sought by the ASA or CAP
- c Sensory effects
Use of language regarding well-being eg revitalised, more positive or relaxed

3.1 Conditions covered by statute

You must not make any claims to treat cancer. Extreme care should be taken when designing any marketing material related to cancer. This includes statements regarding your own clinical experience and testimonials. For example, 'I spent three years treating people with cancer at XXX hospice', could be interpreted as a claim to treat cancer.

3.2 Conditions covered by self-regulation

The majority of health conditions fall within the self-regulatory framework. Although a distinction can be made between a sign or symptom and a condition, for the purposes of

advertising there is no difference. For example, incontinence may be classed as a sign/symptom and overactive bladder syndrome as a condition. However, claims to treat incontinence will be required to meet the same evidence level as overactive bladder syndrome.

The principal rule of the code that determines whether we are able to make a claim that acupuncture benefits a particular condition is 12.1, which states:

*Objective **claims must be backed by evidence**, if relevant, consisting of trials conducted on people..... Substantiation will be assessed on the basis of the available scientific knowledge.*

It is important to note that you, the advertiser, must have in your possession the evidence to back your claim prior to using the marketing material. This means if somebody lodges a complaint about your advertising, you cannot ask for time to gather the evidence. A delay in your response will be considered a breach of the code.

The conditions covered by self-regulation have been further divided into two sub-categories. The first sub-category, 2.a, refers to a list of conditions that come under 12.2 of the Code, which states:

*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.*

The ASA is yet to consider whether BAcC members should be considered suitably qualified health professionals. CAP deem professionals suitably qualified if they have evidence of:

relevant professional expertise or qualifications; ... 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

The BAcC is an Accredited Register of Professional Standards Authority, therefore, it seems likely that the ASA would consider such credentials to be appropriate evidence of suitable qualification. Therefore, at present, there appears to be little practical difference between the two sub-categories in terms of marketing and making claims for BAcC members. Furthermore, discouraging an individual from seeking medical advice would likely be considered to breach your duty of care, as set out in the Code of Professional Conduct. The respective list can be seen in appendices three and four.

3.3 Conditions that have met the ASA substantiation criteria

The following conditions have met the ASA substantiation criteria. This means that you can refer to them in your marketing material. However, the ASA has equally upheld

complaints about ads that refer to these conditions but where it was not made clear that any relief achieved was temporary or ‘short-term’.

- 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
- Short-term improvement in the symptoms of overactive bladder syndrome (through electro-acupuncture at the SP6 point)

3.4 Sensory effects

The ASA is likely to accept advertising claims about the sensory effects of acupuncture. Nevertheless, you still need to be careful. Any implied treatment effect on a specific condition also needs to be backed by sufficient clinical evidence. Table 1 sets out how sentences can be rephrased to adhere to the advertising guidelines

Table 1: Sensory effect phrasing

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’

4 Adhering to current guidelines

To describe the benefits of acupuncture we can only mention a limited number of conditions, with caveats such as 'short term', along with sensory effects, such as 'feeling relaxed'. In addition, there is a need to take some care with regards to the verbs. To state that acupuncture can 'cure' any condition is likely to be considered a breach.

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 to make any necessary revisions, prior to publication.

The Copy Advice Team are not able to review entire websites. Therefore, you will need to select those pages that are most relevant. Namely, those that set out the benefits of acupuncture and refer to specific conditions.

Please note, the Copy Advice Team can only provide advice on meeting **the current guidelines**. They are not trained to evaluate evidence.

5 Examples of approved text

The following was approved by the Copy Advice Team
(Advertising Advice for Members, February 2011)

- a Acupuncture works to help maintain your body's equilibrium. It involves the insertion of very fine needles into specific points on the body to regulate the flow of 'qi', your body's vital energy. For a number of lifestyle and environmental reasons, qi can become disturbed, depleted or blocked, which can result in some symptoms of pain and illness. In certain instances, traditional acupuncture can be an effective therapy to help restore balance and promote physical and emotional harmony.
- b Treatment is aimed at the root of your condition as well as your main symptoms. This approach helps with resolving your problem and enhancing your feeling of wellbeing.

You may notice other niggling problems resolve as your main health complaint improves.

- c Acupuncture originated in China and other far eastern cultures where it still features in mainstream healthcare, both as a stand-alone therapy and in combination with

conventional Western medicine. Acupuncture is now widely used and accepted all over the world. In the UK more and more people are finding out what acupuncture can do for them.

Who has acupuncture?

Many people come to acupuncture for help with specific symptoms or to relieve specific pains like osteoarthritis of the knee. Some use acupuncture because they feel generally unwell but have no obvious diagnosis. Others choose acupuncture simply to enhance their feeling of wellbeing. Acupuncture is considered suitable for all ages including babies and children. It can be used effectively alongside conventional medicine.

What can it do for me?

Some people turn to acupuncture for help with a specific symptom or condition. Others choose to have treatment to help maintain good health, as a preventive measure, or simply to improve their general sense of wellbeing. Because traditional acupuncture aims to treat the whole person rather than specific symptoms in isolation, it can be effective for a range of conditions.

Remember that acupuncturists treat the person, not just the condition which they have, so each patient's treatment plan will be different. However, you can always ask your practitioner about other patients' experiences, to give you an idea of what to expect. Many people return to acupuncture again and again because they find it so beneficial and relaxing.

In 2009 the National Institute for Health and Care Excellence recommended that acupuncture should be made available on the NHS, as a cost-effective short-term treatment for the management of early, persistent non-specific lower back pain.

You can get more information on current scientific research into the effectiveness of acupuncture by visiting www.acupuncture.org.uk or by speaking to a BAcC registered acupuncturist

Recently approved text

What are the benefits of acupuncture?

A lot of people seek acupuncture to help relieve specific conditions, especially pain conditions such as tension headaches, migraines, neck or back pain, osteoarthritis of the knee and temporomandibular joint pain. Clinical trials have shown that acupuncture does relieve these symptoms, at least in the short term. Whatever your particular problem, because treatment is designed to affect your whole body and not just your symptoms, you may notice other niggling complaints also get better with a course of treatment. Indeed, some people choose acupuncture when they feel their bodily functions are out of balance, but they have no obvious diagnosis. Once tried, many people have regular or 'top-up' treatments because they find it so beneficial and relaxing. For some conditions, such as migraine, acupuncture can be given to prevent flare-ups from occurring. People also have acupuncture for other health problems. For example, there is clinical evidence that acupuncture provides short-term relief for overactive bladder

syndrome. Another benefit of acupuncture is that it can be given alongside other therapies and/ or medication, in almost all circumstances.

Researchers can only draw firm conclusions about whether acupuncture is effective or not when high quality evidence is available. In the last decade, the evidence regarding some chronic pain conditions has become much stronger. Based on this evidence, in 2017, the National Institute for Health and Research issued a [Signal](#) (a short summary of recently published research) that acupuncture was effective for some chronic pain and was not a placebo. However, for many conditions there are simply not enough good quality clinical trials for researchers to draw firm conclusions. Please see our A-Z of acupuncture evidence and/or the [Cochrane Library](#). If you are considering having acupuncture and would like to know more, please speak to a BAcC practitioner.

We also recommend that you speak to your GP. Acupuncture is currently included in the following National Institute for Health and Care Excellence (NICE) guidelines:

[Headaches in over 12s: diagnosis and management \(CG150\)](#)

[Chronic pain \(primary and secondary\) in over 16s: assessment of all chronic pain and management of chronic primary pain \(CG193\)](#)

6 Using testimonials

The following is taken directly from [Health therapies and evidence: Advertising Guidance \(non broadcast and broadcast\), CAP \(no date\)](#)

Can I use testimonials in my advertising?

Under the CAP Code, testimonials can be used, but with care. The ASA has a long-standing rule that if a testimonial includes a direct or indirect claim to relieve a condition or symptom then this will be subject to the same rules as any other claim. So where efficacy has not been proven, they should not be used to imply that it is.

A similar rule applies in all sectors – advertisers cannot use testimonials to make claims that would otherwise not be permitted under the Advertising Codes.

Why do you allow consumer-based claims for some products and not for health therapies such as mine?

The type of claim will determine the type of evidence or methodology needed to support it.

Claims for a consumer product are often very different, both in content and context to those made by a health therapist. So a sensorial or subjective claim such as ‘my skin feels smoother’, ‘I felt invigorated’ or ‘I was more relaxed after my therapy session’ might require only consumer opinion research to back it up. Likewise, a claim to be a bestseller will be seen by us and consumers (some of whom may be particularly vulnerable) as different to a claim that therapists can alleviate a particular symptom or medical condition.

A health-related efficacy claim for a treatment requires a higher level of evidence because it deals with consumers' health where the potential risk from misinformation could be great. We apply the same standard across the board, including for GMC registered doctors.

In addition, if a consumer product claims to cure a disease or alleviate a symptom, similar standards of evidence would be applied. And if it's a medicine, it would need to have a licence.

[Also see Appendix 3: testimonials and endorsements](#)

7 Example text for testimonials and Chinese medicine

Further forms of words

The words used in the leaflet offer one very simple way of mentioning a specific condition, in this case osteoarthritis of the knee, to illustrate a more wide-ranging point. In the same way it would be perfectly possible to use one of the 'permitted' named conditions:

a To introduce a patient testimonial or case history

Patient testimonials, or better still, case histories which outline a patient's problems and the solution you have provided, can be very compelling. In the 'open' newsletter which RSA funded we used one (CAP approved) about nausea:

Debbie (32) decided to try acupuncture treatment for morning sickness after everything else failed. 'I was starting to get worried. My first two pregnancies had been comfortable. From the moment I woke up I felt nauseous, and could barely hold even a glass of water down.'

Debbie had read about the use of acupuncture for feeling nauseous in a childbirth book. 'It wasn't magic,' she said, 'it took three or four sessions to get to the point where I didn't feel sick all the time, and my acupuncturist was very careful because I was pregnant. There's no doubt it helped, though, and it seemed to help me to keep calm as well. A little girl, in case you wondered!'

Everyone has had patients whose own stories are a very eloquent testimony to the success of their treatment. The restriction to the four named conditions is something of a hindrance but if we fail to regain the long lists of conditions, the gradual extension of individual conditions will enable more stories like this to be used.

b To talk about the more specific aspects of Chinese medicine

Two of the most important aspects of our work are that each person is unique in diagnostic terms and that the oriental paradigm offers a very wide range of options for understanding a symptom.

For example, you could use a paragraph which said:

The understanding of a symptom like, say, nausea within Chinese medicine can be quite complex. The strength of Chinese medicine is its ability to find exactly where nausea fits within a range of complex patterns and to identify the best treatment specifically for you.

or

The translation between the patterns of Chinese medicine and western named conditions is a fascinating one. For nearly every named condition you bring to your practitioner, like nausea, or osteoarthritis of the knee, there is a complex weave of different syndromes and patterns within which it is understood. The symptoms are important, a bridge between what you experience and how the practitioner, be they eastern or western, makes sense of what you bring to them. Every symptom has meaning within the eastern tradition.

8 The evidence base on your website

In section: IV These criteria apply to the Code, (i) states:

the Code makes due allowance for public sensitivities but will not be used by the ASA to diminish freedom of speech unjustifiably

Therefore, we believe that the Code should not prohibit members from presenting research and discussing the evidence base on their websites or in any other setting. However, members should follow the following basic principles:

- have dedicated page(s) for the evidence
- include an introductory section that highlights the different degrees of certainty regarding evidence - the evidence pyramid
- present a balanced assessment of the evidence base
- refer and provide links to independent sources eg the Cochrane Library

Members can also provide links to other sources:

- the BAcC's A-Z of Evidence
- [Cochrane Library](#)
- [the evidence map of acupuncture](#)
- open-source research papers and systematic reviews
- [evidence-based acupuncture](#)
- [the Acupuncture Evidence Project](#)

8.1 Lists of conditions with links to external sources

Do not include a simple list of conditions, with hyperlinks to the BAcC evidence factsheets or similar websites, with a sentence to the effect that 'Evidence regarding the effectiveness of acupuncture can be found below'.

Somebody interested in acupuncture, who sees the list, would potentially assume that there was at least a reasonable amount of clinical evidence regarding all the conditions listed. The member of the public may not click through to the factsheet/ report/ systematic review and would not see that for some conditions the evidence may be poor quality/ weak. Even though the factsheet/ report/ systematic review is accurate, stating there is a lack of evidence for the condition, a member of the public could still be misled.

9 Face to face conversations

The Advertising Code does not restrict the conversations that you have with (potential) patients. Nevertheless, you should present the information with reference to the evidence pyramid. Make clear where on the evidence pyramid a condition sits. In practice, this means that for some conditions you will need to inform the (potential) patient that the clinical evidence simply doesn't exist or is weak/ poor quality. You may refer to your own clinical experience and those of your colleagues/ teachers. Ensure that the person understands you are speaking from the 'expert opinion' level of evidence. This is part of your duty of care to ensure that the patient understands what you are telling them, as set out in the Code of Professional Conduct.

10 Social media

Social media now covers a wide range of different platforms, some of which are particularly limited in text, such as Twitter, whereas others allow for more discussion. In some circumstances these platforms can be treated as advertising. Our general advice to members is similar to that for presenting the evidence base on your website and face-to-face discussions. Namely, that you refer to specific research rather than make simple assertions. In addition, you should try to present a balanced perspective and the context of the relative quality of the existing evidence.

11 New claims: substantiation for additional conditions

For conditions not on the list in section 3.3, it is possible to make claims that acupuncture is effective. However, you must have the evidence to support the claim. Similarly, evidence that acupuncture effects are more than short term can be made for back pain, but you will need the evidence to support the claim.

If a complaint is made, the ASA may choose to investigate. If your evidence is sufficiently strong the complaint could be rejected, and the list of substantiated conditions would be expanded. The ASA publishes the results of its decisions. Therefore, if the complaint is

upheld then there will be a degree of negative publicity, as you will be identified as a person who breached advertising guidelines.

Please ensure that your website meets the current guidelines

The BAChC is planning to request a special review by ASA CAP. Osteopathy and chiropractic have both had a special review within the last five years. We have been advised that we should limit the request to three or four conditions.

If you feel there is strong evidence for a particular condition, and you want to be involved in putting forward the case please get in touch with Ian Appleyard (Research and Policy Manager) i.appleyard@acupuncture.org.uk

To maximise our chances of success it will be better to have a coordinated approach. This may also involve the Professional Standards Authority (PSA) and working with other acupuncture organisations such as the British Medical Acupuncture Society (BMAS). By having a special review, we hope to be able to clarify the criteria that need to be met. For example, we will request clarity regarding the value of evidence from pragmatic trials compared to placebo controlled.

Appendix 1 - CAP Code Section 12

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 which 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.

Appendix 2 - Acupuncture: advice online

Acupuncture

Advice online | 26 February 2019

Note: This advice is given by the CAP Executive about non-broadcast advertising. It does not constitute legal advice. It does not bind CAP, CAP advisory panels or the Advertising Standards Authority.

What is acupuncture?

Acupuncture is the insertion of needles into the skin and underlying tissues in key 'points' for therapeutic or preventative purposes. The theory behind the therapy is that certain 'trigger points' – probably nerve fibres or receptors – are stimulated with needles which are thought to induce rhythmic discharges that cause a release of endogenous opioids and oxytocin.

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 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).

What treatment claims are likely to be acceptable?

The ASA has been provided with clinical evidence and has ruled that the following claims are likely to be acceptable ([University College London Hospitals](#), 12 June 2013).

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'.

Can practitioners of acupuncture claim to treat conditions that should be treated under the supervision of a qualified health professional?

CAP understands that no compulsory regulation exists for acupuncture practitioners and 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 (Rule 12.2)

Where practitioners are registered with a body that has appropriate accreditation in place, such as that provided by the Professional Standards Authority Voluntary Register Scheme, it is possible that the ASA may consider such credentials to be appropriate evidence of suitable qualification.

CAP otherwise advises that marketers should not claim to treat (or discourage essential medical treatment for) any conditions for which medical supervision should be sought ([CMT Integrated Health Ltd](#), 22 May 2013).

Ring on [020 7492 2100](tel:02074922100), between 9am and 5pm, Monday to Friday for general advice about the CAP Code if you have any questions, or [send your specific queries, to the CAP Copy Advice Team](#).

April 2021

Appendix 3 - Testimonials and endorsements: advice online

Testimonials and endorsements

Advice online | 04 Jan 2019

Note: This advice is given by the CAP Executive about non-broadcast advertising. It does not constitute legal advice. It does not bind CAP, CAP advisory panels or the Advertising Standards Authority.

Marketers must hold documentary evidence that a testimonial or endorsement used in a marketing communication is genuine and hold contact details for the person who, or organisation that, gives it (rule 3.45). Showing that a testimonial is genuine has two elements; showing that the quote is from a real person and that it reflects what they said. Claims within a testimonial must not mislead or be likely to mislead the consumer. Please see '[Claims in testimonials and endorsements](#)' for guidance on making claims in testimonials.

Do not pose as a consumer

Marketing communications must not falsely claim or imply that the marketer is acting as a consumer or for purposes outside its trade, business, craft or profession (Rule 2.3). It is a breach of the Code for a marketer to write reviews of their own products whilst posing as a genuine consumer.

Seek permission to use the testimonial

Marketing communications must not feature a testimonial without permission (Rules 3.45 and 3.48). When seeking permission to use a testimonial, marketers should be aware of their obligations under [Section 10: Database practice](#). The ASA has upheld complaints when marketers have not been able to prove they have the author's consent ([Conservatory Outlet Ltd](#), 20 March 2013) and when a testimonial was wrongly attributed to a complainant whose image was used without her consent (Phyto Nature Source, 25 October 2006).

Rule 3.48 allows for some exceptions to the requirement to get permission when making accurate quotes from a published source. Marketers quoting from a published source still need evidence to show that the statements are genuine and accurate (eSmart Media Ltd t/a top10healthinsurance.com, 22 January 2014). The ASA ruled that a list of quotes with references to the publications in which they appeared was not sufficient to show that the quotations were from those publications ([www.comedyclubbookings.com](#), [27 March 2013](#)). [The ASA ruled against a Spotify ad for the film Taken 2](#) which quoted "Eat your heart out 007", says the Daily Star, 'ten out of ten' because whilst the advertiser had provided an e-mail approving the use of the quote, it did not appear to have come from the same person who had written the published Daily Star review. Furthermore the ASA considered that the average listener would understand "Eat your heart out 007", says the Daily Star, 'ten out of ten' to mean that the quote had been made in a published Daily Star review when this was not the case.

Hold documentary evidence

Signed and dated proof is likely to be considered acceptable documentary evidence, however it is not the only form of evidence that the ASA will consider acceptable. For example, where an advertiser was able to provide copies of the e-mails which contained testimonials, the addresses and the ordering history of the customers, the ASA considered sufficient evidence had been provided to demonstrate that the testimonials were genuine (Monark Global Ltd t/a Tru-Diamonds, 11 December 2013). E-mail testimonials from unverifiable addresses (such as hotmail) would not be acceptable in and of themselves although the ASA has accepted testimonials in the form of a provable company e-mail address (de Verde Ltd, 28 August 2013). The ASA considered that a testimonial from an unverifiable web based e-mail address which contained no further contact details was insufficient to demonstrate that the testimonial was genuine and therefore ruled the claim 'all testimonials are from actual real customers!' to be misleading (de Verde Ltd, 28 August 2013).

Use testimonials that are relevant to the product

As would you expect, testimonials must relate to the product advertised (Rule 3.46, Home Shopping Selections, 12 December 2007). They should not be taken out of context or edited in a way which is misleading. An ad which used the review of one track on an album in an advertisement for the whole album without attributing the review to the previously released single was found to be misleading (Warner Music UK Ltd t/a Atlantic Records, 23 November 2011). Marketers using testimonials for companies that no longer trade should be careful not to misleadingly imply that they are for other companies and should note that amending testimonials so that they refer to a more recent incarnation of a company will be considered misleading (YorHost, 13 June 2012). However the ASA ruled that it was acceptable for an advertiser to use a genuine testimonial which referred to client's satisfaction with a specific individual albeit that the testimonial related to work done with a company which had dissolved (Holzmeister Haus Ltd, 4 September 2013).

Beware of restricted product categories

Marketers should be aware that in some circumstances the use of testimonials and endorsements is excluded altogether. Namely, marketers may not use health professionals or celebrities to endorse medicines (rule 12.18) and may not make health claims that refer to the recommendation of an individual health professional (rule 15.6.3).

Don't incentivise positive reviews

While providing incentives to encourage people to leave genuine, unbiased reviews and testimonials could potentially be considered acceptable, directly and explicitly incentivising consumers to leave positive reviews or testimonials is likely to be considered problematic. For example, the ASA ruled against testimonials in an ad where the advertiser had offered to refund an amount of money back to the consumer for leaving a 'nice review' and, similarly, where a promoter had added an additional entry in a promotion, and therefore an increase in the chances of winning, if the consumer left a 'five star' review on their Facebook page ([Official iPhone Unlock Ltd](#), 19 September 2018; [Vindicta Digital](#), 26 September 2018).

Ring on [020 7492 2100](tel:02074922100), between 9am and 5pm, Monday to Friday for general advice about the CAP Code if you have any questions, or [send your specific queries, to the CAP Copy Advice Team](#).

Appendix 4 - Lists of conditions (appropriately qualified health professional)

- 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)
- Multiple Sclerosis, MS
- Malaria
- Memory problems or Memory Lapses
- Menopausal Symptoms
- Menstruation, Regulation of
- Metabolic Diseases
- Migraine [c.f. Migraine Headaches]
- 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

Appendix 5 - 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)
- Nail biting (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

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