

Department of Health
Guidelines on the Undesirable Medical Advertisements Ordinance, Cap. 231
(with effect from 1 June 2012)

Please note that the following only serves as general guidance. For specific legal requirements, please refer to the Undesirable Medical Advertisement Ordinance (Cap. 231). The Ordinance can be downloaded from https://www.elegislation.gov.hk/?_lang=en

The Undesirable Medical Advertisements Ordinance (UMAO), Cap. 231 aims to protect public health through prohibiting or restricting advertisements which may induce the seeking of improper management of certain health conditions. According to the UMAO, no person shall publish, or cause to be published the following :

- (a) Any advertisements likely to lead to the use of any medicine, surgical appliance or treatment for
 - (i) the purpose of treating human beings for, or preventing them from contracting any disease or condition specified in Schedule 1 (except for a purpose specified in column 2 of that Schedule); or
 - (ii) treating human beings for any purpose specified in Schedule 2 of the Ordinance.
- (b) Any advertisement: offering to procure a miscarriage of women; canvassing, inviting or inducing the procurement of miscarriage of women; or referring to any thing in terms which are calculated to lead to the use of that thing for the procurement of miscarriage of women.
- (c) An advertisement for an orally consumed product which makes for the product a claim specified in column 1 of Schedule 4, or any similar claim, except as allowed under the provisions in column 2 of that Schedule.

“Medicine”

As defined in the Ordinance, “Medicine” includes any kind of medicament or other curative or preventive substance, and whether a proprietary medicine, a patent medicine, a Chinese herbal medicine, a proprietary Chinese medicine, or purported natural remedy.

“Orally Consumed Product”

As defined in the Ordinance, “Orally Consumed Product” (口服產品) –

- (a) means a product (whether or not it is a medicine) for human consumption which is intended to be taken orally and is in any of the following forms –
- (i) pill;
 - (ii) capsule;
 - (iii) tablet;
 - (iv) granule;
 - (v) powder;
 - (vi) semi-solid;
 - (vii) liquid; or
 - (viii) a form similar to any of the forms mentioned in subparagraph (i), (ii), (iii), (iv), (v), (vi) and (vii); and
- (b) does not include a product which is customarily consumed only as food or drink (that is to say, to provide energy, nourishment or hydration) or to satisfy a desire for taste, texture or flavour.

“Advertisement”

As defined in the Ordinance, “advertisement” includes any notice, poster, circular, label, wrapper or document, and any announcement made orally or by means of producing or transmitting light or sound. These include advertisements published in newspapers and magazines, leaflets, on radio, television, and internet, as well as the on the label of a container or package containing any medicine, surgical appliance, treatment, or orally consumed product.

Prohibited or restricted claims in Schedules 1 and 2

In Schedule 1 of UMAO, there are 14 diseases / conditions specified in column 1 in respect of which advertisements are prohibited or restricted, except for the purpose (if any) as specified in column 2. Under Schedule 2, there are three purposes which are prohibited.

Please refer to Annex A for a list of examples of prohibited and allowable words and phrases under Schedules 1 and 2 of the UMAO for reference (in Chinese only). The examples given are not exhaustive.

Prohibited or restricted claims in Schedule 4

Six groups of claims are prohibited or restricted in Schedule 4. These are subject to two levels of restriction based on their risk.

The first level of restriction applies to high risk claims, namely, claims relating to the prevention, elimination or treatment of breast lumps, the regulation of the function of the genitourinary system; and the regulation of the endocrine system (items 1 to 3 of Schedule 4). The making of such claims will not be allowed under any circumstances.

For the second level of restriction which is applicable to regulation of body sugar or glucose, regulation of blood pressure and the regulation of blood lipids or cholesterol (items 4 to 6 of Schedule 4), only 4 prescribed claims are permissible as specified for each type of claim in column 2 of Schedule 4.

For products using the specified claims for items 4 to 6 of Schedule 4, and which are not registered under the Pharmacy & Poisons Ordinance or the Chinese Medicine Ordinance, a disclaimer must be clearly put in the advertisement to inform consumers that they are not products registered under the two Ordinances. In these cases, the disclaimer should be provided in all types of advertisement, including printed advertisements, advertisements broadcast on the television, radio, and internet etc. The disclaimer as specified in column 2 of Schedule 4 is as follows:

“This product is not registered under the Pharmacy and Poisons Ordinance or the Chinese Medicine Ordinance. Any claim made for it has not been subject to evaluation for such registration. This product is not intended to diagnose, treat or prevent any disease.”

Please refer to Annex B for the “Supplementary Guidelines on Regulation of Six Groups of Health Claims of Orally Consumed Products” for details.

Claims of an Advertisement

The Department of Health advises that if a statement about a product /treatment claims that the product /treatment:

- (a) has an effect on a specific disease or class of diseases;
 - (b) has an effect on the characteristic signs or symptoms of a specific disease or class of diseases; or
 - (c) reduces the risk of developing a specific disease or class of diseases;
- the statement is considered as a claim for prevention or treatment of disease.

However, in determining whether an advertisement is suspected to contravene the UMAO, the content of the advertisement is considered as a whole, including the wording, name

of the product, pictures, graphs, symbols, or other means, as well as the concept and/or the message being advertised.

Conclusion

This guideline is prepared to assist the trade to better understand the Ordinance. The Department of Health suggests that legal advice should be sought when there are doubts concerning interpretation of the UMAO. In case of prosecution, the final interpretation of the law rests with the court.

1st June 2012