

Advertising with Caution: Guidelines to Medical Advertising

Sadaf Nakhaei
s.nakhaei@tamimi.com

December 2015 – January 2016

Medical devices are regulated by the Drug Control Department of the Ministry of Health. To this end, the UAE Medical Device Regulation Guideline is aimed to maintain a balance between ensuring product safety, quality and effectiveness and providing the public with timely access to medical devices and preventing the entrance of unsafe or ineffective devices into the UAE market. The UAE Medical Device Registration Guideline states that medical device manufacturers must register with the MOH before they can market their products in the UAE. Accordingly, companies who wish to export their products into the UAE must do so via a local representative or distributor who is licensed.

Where the subject matter of advertising is medical products and services, advertisers must comply with special requirements. It is prohibited to publish any advertisements and / or to advertise medicine or pharmaceutical products without the approval of the Ministry of Health. Such an approval shall only be granted if the relevant advertisement complies with the requirements of the applicable regulations.

In the UAE, Regulation No. 430 of 2007, also known as the Health Advertisement Regulation is the body of law regulating the field of advertising in the medical field. As part of the definitions in article 1 of the regulation, the following definitions need to be highlighted:

“ Advertisement: any information about the Medical Product in written , photographic and broadcasting form, in the form of a design, in the form of a product packaging in any of the media whether audio, visual and printed, in the form of posters in public places or in promotional form through the means of personal, technical or electronic messages communication.”

“ Medical Product: Everything linked to the human health, such as medicine and drugs, including herbal medicine – health food, nutritional supplements and beauty centers – medical apparatus and supplies – medical institutions – people who is practicing the medical profession of physicians and technicians – ways and methods of medical treatment by traditional or alternative methods.”

Articles 2 and 3 of the Regulation clearly sets out that the Ministry of Health is the exclusive body allowed to license the Advertisement for medical products. Accordingly, the advertisement for medical products shall not be licensed unless such products are licensed or authorized in accordance with the laws and regulations.

Article 4 of the Regulation provides a list of do's and don'ts when it comes to Medical Advertising, amongst others the advertising must be accurate and should not contain exaggerated, misleading or alarming statements. Furthermore, if the medical advertising is to contain statements such as “number 1 prescribed medicine by health professionals” such statements need to be verified and corroborated with an independent study proving the accuracy of the statement. Hence, during the review of the advertising or even through a third party challenge/complaint, the Ministry of Health may request proof of such independent studies establishing the veracity of the statements contained in the advertising.

The Regulation also provides that certain medical advertising is prohibited based solely of the content matter, hence it is prohibited to advertise medical products and services relating to the following:

- Abortions;
- Embryo freezing;
- Products scientifically proven to be detrimental on public health;
- Tattoo work;
- Treatment, full recovery or preventing the following diseases:
 - Cancer;
 - Sexually transmitted Diseases ("STDs");
 - Acquired Immune Deficiency Syndrome (AIDS);
 - Hepatitis;
 - Mental and psychological disorders.

In conclusion, when deciding on advertisement related to the medical field, a greater degree of care and attention is required. Given the intended demographic, the legislator has implemented the set of regulations so as to avoid preying of the weak and desperate who may be more susceptible to the language, promises and results made in the medical advertising.