



Advice from the Committee of Advertising Practice (CAP)

Note: This advice does not constitute legal advice.

This advice is intended to help marketers of osteopathic services comply with the CAP Code, particularly online, and to understand the Advertising Standards Authority's (ASA) current position regarding acceptable claims.

The ASA does not regulate osteopathic clinical practice; that is a matter for the General Osteopathic Council. Nor does it regulate private communications or conversations between you and your (potential) clients. The ASA regulates your advertising only.

1. The need for evidence

One of the key rules in the CAP Code is that advertisers need to hold evidence for 'objective' claims made in marketing communications. These are claims that consumers are likely to regard as objective i.e. they have a factual basis. The Code states the following:

3.7

Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.

The words 'before ... publication' are crucial. As the marketer, you have a pre-publication responsibility for ensuring that your claims are borne out in fact and, where necessary, supported by robust evidence.

Rule 3.7 is further clarified in the section specific to medicines and health-related products:

12.1

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.

Medicinal or medical claims and indications may be made for a medicinal product that is licensed by the MHRA, VMD or under the auspices of the EMA, 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.

2. What can be said in marketing communications?

The CAP Advice Online entry “Health: *osteopathy*” (see links on page 4 of 4) lists those conditions that we accept osteopaths may claim to help:

- generalised aches and pains
- joint pains including hip and knee pain from osteoarthritis as an adjunct to core OA treatments and exercise
- arthritic pain
- general, acute & chronic backache, back pain (not arising from injury or accident)
- uncomplicated mechanical neck pain (as opposed to neck pain following injury i.e. whiplash)
- headache arising from the neck (cervicogenic) / migraine prevention
- frozen shoulder / shoulder and elbow pain / tennis elbow (lateral epicondylitis) arising from associated musculoskeletal conditions of the back and neck, but not isolated occurrences
- circulatory problems
- cramp
- digestion problems
- joint pains, lumbago
- sciatica
- muscle spasms
- neuralgia
- fibromyalgia
- inability to relax
- rheumatic pain
- minor sports injuries and tensions

3. Claims to avoid

- In the simplest terms, you should avoid using efficacy claims, whether implied or direct, that aren't supported by robust evidence. If you are stating or implying that you, your service or a product can be effective in doing something, you need to ensure that you have the evidence to prove the claim.
- As noted in the letter above, based on the evidence CAP and the ASA have seen, claims to treat any conditions not in the list of acceptable conditions above are likely to breach the CAP Code
- You could not, therefore, use the claim "We can help with your baby's colic", because CAP have not seen robust evidence to show that osteopathy can treat colic.

4. Testimonials

You will almost certainly have received feedback from your clients and be keen to include positive comments you have had on your website. However, it is important to note these rules about testimonials before you include them:

- Testimonials must relate to the product advertised, and claims in a testimonial that are likely to be interpreted as factual must not mislead or be likely to mislead the consumer.
- Marketers may not use testimonials to circumvent the CAP Code by making claims in a consumer review that they would not otherwise be permitted to make. For example, if a marketer doesn't hold the evidence to substantiate an efficacy claim, they cannot use a testimonial which makes that claim.
- Testimonials alone do not constitute substantiation so marketers should not rely on testimonials as support for any direct or implied claims made in the marketing communication.
- Marketers using a testimonial must hold evidence that it is genuine. This requirement has two elements; i.e. that the quote is from a real person and that it reflects what they said.
- So, even if one of your clients has told you, for example, "You've cured my baby's colic", you could not currently use that testimonial on your website, because CAP have not seen robust evidence to show that osteopathy can treat colic.

Directory of CAP online advice, relevant to osteopathy (as at August 2015)

These requirements cover all advertising and marketing materials, including websites, practice leaflets and posters.

You are responsible for your entry on any website or directory that advertises your osteopathic services, and on social media websites such as Facebook and Twitter.

Check **regularly** that you are meeting the requirements of the ASA and CAP.

<i>UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the CAP Code)</i>	http://bit.ly/the-cap-code
Health: <i>osteopathy</i>	http://bit.ly/cap-advice-osteopathy
CAP Help Note: <i>Health, beauty and slimming marketing communications that refer to medical conditions</i>	http://bit.ly/cap-help-note-medical-conditions
Health: <i>therapies (general)</i>	http://bit.ly/cap-advice-health-therapies
Health: <i>therapies and references to medical conditions</i>	http://bit.ly/cap-advice-medical-conditions
<i>Claims in testimonials and endorsements</i>	http://bit.ly/cap-advice-testimonial-claims
Questions and Answers: <i>Guidance on health therapies and evidence</i>	http://bit.ly/cap-qa-health-therapies
CAP Help Note: <i>Substantiation for health, beauty and slimming claims</i>	http://bit.ly/cap-help-note-health-beauty-slimming

Seeking further help

For more information see www.cap.org.uk