

Chapter:	231	Undesirable Medical Advertisements Ordinance	Gazette Number	Version Date
		Long title	E.R. 2 of 2012	02/08/2012

To restrict certain advertisements relating to medical and health matters.

(Amended 16 of 2005 s. 2)

[1 April 1953]

(Originally 4 of 1953)

(*Format changes—E.R. 2 of 2012)

Note:

* The format of the whole Ordinance has been updated to the current legislative styles.

Section:	1	Short title	E.R. 2 of 2012	02/08/2012
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This Ordinance may be cited as the Undesirable Medical Advertisements Ordinance.

Section:	2	Interpretation	E.R. 2 of 2012	02/08/2012
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(1) In this Ordinance, unless the context otherwise requires- (Amended 65 of 1988 s. 9; L.N. 95 of 1993) **advertisement** (廣告) includes any notice, poster, circular, label, wrapper or document, and any announcement made orally or by any means of producing or transmitting light or sound;

medicine (藥物) 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; (Amended 47 of 1999 s. 167; 16 of 2005 s. 4)

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 subparagraphs (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. (Added 16 of 2005 s. 4)

(2) For the purposes of this Ordinance-

- (a) the sale or supply, or offer or exposure for sale or supply, of any-
 - (i) medicine;
 - (ii) surgical appliance; or
 - (iii) treatment,
in a labelled container or package shall constitute the publication of an advertisement;
- (b) the supply, inside any container or package containing any medicine, surgical appliance or treatment, of information relating to that or any other medicine, surgical appliance or treatment shall not constitute the publication of an advertisement. (Added 65 of 1988 s. 9)

Section:	3	Prohibition of advertisements relating to certain diseases; exceptions therefrom	E.R. 2 of 2012	02/08/2012
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- (1) No person shall publish, or cause to be published, any advertisement likely to lead to the use of any medicine, surgical appliance or treatment for-
 - (a) the purpose of treating human beings for, or preventing human beings from contracting, any disease or condition specified in column 1 of Schedule 1, except for a purpose (if any) specified in column 2 of that Schedule; or
 - (b) treating human beings for any purpose specified in Schedule 2. (Replaced 65 of 1988 s. 2)
- (2) Subsection (1) shall not apply to an advertisement published by or with the authority of the Director of Health or to an advertisement duly authorized by an officer of the Chinese People's Liberation Army for dissemination only amongst members of the Chinese People's Liberation Army. (Amended L.N. 76 of 1989; 2 of 2012 s. 3)
- (3) Where, in an advertisement published in contravention of subsection (1), a person named in that advertisement is held out-
 - (a) as being a manufacturer or supplier of medicine or surgical appliances; or
 - (b) as being able to provide any treatment,
 that person is presumed, until the contrary is proved, to have caused the advertisement to be published. (Added 65 of 1988 s. 2)
- (4) Where an advertisement published in contravention of subsection (1) gives the name, address or telephone number of, or indicates some other means of contacting, a person, and that person-
 - (a) manufactures or supplies medicine or surgical appliances; or
 - (b) provides any treatment,
 that person is presumed, until the contrary is proved, to have caused the advertisement to be published. (Added 65 of 1988 s. 2)
- (5)-(6) (Omitted as spent—E.R. 2 of 2012)

Section:	3A	(Omitted as spent—E.R. 2 of 2012)	E.R. 2 of 2012	02/08/2012
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Section:	3B	Prohibition of advertisements relating to certain orally consumed products; exceptions therefrom	E.R. 2 of 2012	02/08/2012
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- (1) No person shall publish, or cause to be published, 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 (as read subject to the Note in that Schedule).
- (2) Where section 3(1) does not apply to an advertisement by virtue of section 3(2), in so far as the advertisement is also an advertisement for an orally consumed product, subsection (1) does not apply to the advertisement.
- (3) For the purposes of this section—
 - (a) the sale or supply, or offer or exposure for sale or supply, of an orally consumed product in a labelled container or package shall constitute the publication of an advertisement;
 - (b) the supply, inside any container or package containing any orally consumed product, of information relating to that or any other product shall not constitute the publication of an advertisement;
 - (c) **any similar claim** (任何類似的聲稱) means a claim that can reasonably be understood to be to the like effect as the specified claim, by reference to all the relevant circumstances.
- (4) Where, in an advertisement for an orally consumed product published in contravention of subsection (1), a person named in that advertisement is held out as being a manufacturer or supplier of the product, that person is presumed, until the contrary is proved, to have caused the advertisement to be published.
- (5) Where an advertisement for an orally consumed product published in contravention of subsection (1) gives the name, address or telephone number of, or indicates some other means of contacting, a person, and that person manufactures or supplies the product, that person is presumed, until the contrary is proved, to have caused the advertisement to be published.

(Added 16 of 2005 s. 5)

Section:	4	Prohibition of advertisements relating to abortion	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2), no person shall in any manner write, print, or publish or cause to be written, printed or published any advertisement-
 - (a) offering to procure the miscarriage of women;
 - (b) canvassing the procuration of miscarriage of women;
 - (c) inviting or inducing the procuration of miscarriage of women; or
 - (d) referring to any thing whatsoever, in terms which are calculated to lead to the use of that thing for the procuration of miscarriage of women.
- (2) Subsection (1) shall not apply to an advertisement published by or with the written authority of the Director of Health. (Amended L.N. 76 of 1989)
- (3) Where, in an advertisement published in contravention of subsection (1), a person named in that advertisement is held out-
 - (a) as being a manufacturer or supplier of medicine or surgical appliances; or
 - (b) as being able to provide any treatment,
 that person is presumed, until the contrary is proved, to have caused the advertisement to be published. (Added 65 of 1988 s. 4)
- (4) Where any advertisement published in contravention of subsection (1) gives the name, address or telephone number of, or indicates some other means of contacting, a person, and that person-
 - (a) manufactures or supplies medicine or surgical appliances; or
 - (b) provides any treatment,
 that person is presumed, until the contrary is proved, to have caused the advertisement to be published. (Added 65 of 1988 s. 4)

(Replaced 70 of 1980 s. 2)

Section:	5	Certain defences; provision as to Chinese medicine practitioners	E.R. 2 of 2012	02/08/2012
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- (1) In any proceedings for a contravention of section 3, 3B or 4, it shall be a defence to prove that the advertisement to which the proceedings relate was made only in a publication of a technical character intended for circulation mainly amongst persons of the following classes, or of one or some of them- (Amended 16 of 2005 s. 6)
 - (a) medical practitioners registered under the Medical Registration Ordinance (Cap 161), or persons deemed to be medical practitioners under section 29 thereof;
 - (b) pharmacists registered under the Pharmacy and Poisons Ordinance (Cap 138);
 - (c) the medical and para-medical staff of-
 - (i) any hospital or maternity home to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165) applies;
 - (ii) any clinic to which the Medical Clinics Ordinance (Cap 343) applies;
 - (iii) any hospital, maternity home or clinic maintained by the Government, the Chinese University of Hong Kong or the University of Hong Kong;
 - (iv) any hospital, maternity home or clinic managed or controlled by the Hospital Authority established under the Hospital Authority Ordinance (Cap 113); (Replaced 16 of 2005 s. 6)
 - (d) Chinese medicine practitioners registered or listed under the Chinese Medicine Ordinance (Cap 549). (Replaced 47 of 1999 s. 168)
- (2) Nothing in the provisions of section 31 of the Medical Registration Ordinance (Cap 161) shall be taken to permit any Chinese medicine practitioner or other person to take any part in an advertisement infringing the provisions of this Ordinance, except to the extent of the defence provided for in subsection (1). (Amended 47 of 1999 s. 168)

Section:	6	Penalty	E.R. 2 of 2012	02/08/2012
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Any person who contravenes the provisions of section 3, 3B or 4 shall be guilty of an offence and shall be liable upon a first conviction to a fine at level 5 and imprisonment for 6 months and upon a second or subsequent conviction for an offence under the same section to a fine at level 6 and imprisonment for 1 year.

(Amended 65 of 1988 ss. 5 & 10; 16 of 2005 s. 7)

Section:	7	Power to amend Schedules	E.R. 2 of 2012	02/08/2012
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The Director of Health may, by order published in the Gazette, amend the Schedules.

(Added 65 of 1988 s. 6. Amended 80 of 1997 s. 16)

Section:	8	Enforcement provisions	E.R. 2 of 2012	02/08/2012
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- (1) The Director of Health may in writing authorize any public officer to be an inspector for the purposes of this Ordinance.
- (2) For the purpose of ascertaining whether the provisions of this Ordinance are being complied with, an inspector may—
 - (a) at any reasonable time enter—
 - (i) any premises at which any medicine, surgical appliance or orally consumed product is manufactured, stored or sold;
 - (ii) any premises at which any treatment is provided;
 - (b) require any person found in the premises and whom the inspector reasonably suspects to have committed an offence under section 3, 3B or 4, to give to the inspector the person's name and address and evidence of identity;
 - (c) in the premises make such examination and inquiry and do such other things, including the taking of copies of advertisements, as are reasonably necessary for such purpose.
- (3) If a magistrate is satisfied by information upon oath that there are reasonable grounds for believing that—
 - (a) an offence against section 3, 3B or 4 is being or has been committed in any premises; or
 - (b) there is or may be in any premises anything which is or contains, or which is likely to be or to contain, evidence of the commission of an offence against any of those sections,
the magistrate may issue a warrant authorizing any inspector to enter and search the premises.
- (4) If a warrant has been issued under subsection (3) in respect of any premises, an inspector may—
 - (a) at any time, using such force as is necessary, enter and search the premises;
 - (b) remove anything which obstructs such entry and search;
 - (c) detain any person found in the premises, for such period as is reasonably required to permit the search to be carried out, if the person might prejudice the search if not so detained; and
 - (d) inspect, seize and detain anything which is or contains, or which appears to the inspector to be or to contain, evidence of the commission of an offence against section 3, 3B or 4.
- (5) When exercising any of the powers conferred by subsection (2) or (4), an inspector must, if so requested by any person, produce for inspection by that person written evidence of the inspector's authority.
- (6) A person who—
 - (a) wilfully delays or obstructs an inspector in the exercise of the powers conferred by subsection (2) or (4); or
 - (b) fails without reasonable excuse to give any information which the inspector reasonably requires the person to give under subsection (2),
commits an offence and is liable on conviction to a fine at level 3.

(Added 16 of 2005 s. 8)

Schedule:	1	Diseases and Conditions in respect of which Advertisements are Prohibited or Restricted	E.R. 2 of 2012	02/08/2012
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[section 3]

Column 1 Disease or condition	Column 2 Purposes for which advertising is permitted
1. Any benign or malignant tumour.	None.

<p>2. Any viral, bacterial, fungal or other infectious disease, including tuberculosis, dysentery, hepatitis and leprosy.</p>	<p>Treatment or prevention of minor cutaneous infections where a dysentery, medicinal product is to be administered to an external surface of the body, including treatment by means of preparations for the relief of pruritus or exanthematous rashes of childhood infection.</p> <p>Relief of symptoms of aphthous ulcer.</p> <p>Relief of symptoms of common colds, coughs, conditions commonly referred to as influenza and similar upper respiratory tract infections.</p> <p>Treatment of minor acute inflammatory conditions of the buccal cavity and pharynx.</p> <p>Prevention of common colds.</p>
<p>3. Any parasitic disease.</p>	<p>Treatment of scabies or an infestation by threadworms, lice or roundworm.</p>
<p>4. Any venereal disease, including syphilis, gonorrhoea, soft chancre, lymphogranuloma venereum, genital herpes, genital warts, urethritis, vaginitis, urethral or vaginal discharge, acquired immunodeficiency syndrome (AIDS), and any other sexually transmitted disease.</p>	<p>None.</p>
<p>5. Any respiratory disease, including asthma, bronchitis, and pneumonia.</p>	<p>Relief of symptoms of hay fever, rhinitis or catarrh.</p> <p>Relief of blocked-up sinuses.</p>
<p>6. Any disease of the heart or cardiovascular system, including rheumatic heart disease, arteriosclerosis, coronary artery disease, arrhythmias, hypertension, cerebrovascular disease, congenital heart disease, thrombosis, peripheral artery disease, oedema, retinal vascular change and peripheral venous disease.</p>	<p>None.</p>
<p>7. Any gastro-intestinal disease, including gallstone, cirrhosis, gastro-intestinal bleeding, diarrhoea, hernia, fistula-in-ano and haemorrhoids.</p>	<p>Relief of such symptoms as are commonly referred to as indigestion, heartburn, hyperacidity, dyspepsia, halitosis (bad breath) or flatulence.</p> <p>Symptomatic relief of colicky pain, stomach ache or nausea.</p> <p>Relief of occasional or non-persistent diarrhoea or constipation.</p> <p>Prevention of travel sickness or related symptoms.</p> <p>Treatment of haemorrhoids for relief of symptoms by means of locally effective preparations or stool-softening agents and lubricants.</p>
<p>8. Any disease of the nervous system, including epilepsy, mental disorder, mental retardation and paralysis.</p>	<p>Symptomatic relief of headaches.</p>
<p>9. Any disease of the genitourinary system, including kidney stone, nephritis, cystitis, any prostatic disease and phimosis.</p>	<p>None.</p>
<p>10. Any disease of the blood or lymphatic system,</p>	<p>Prophylactic administration of minerals and vitamins</p>

	including anemia, neck glands, bleeding disorders, leukemia and other lympho-proliferative diseases.	to avoid deficiency states in persons with adequate diet or with increased dietary requirements.
11.	Any disease of the musculo-skeletal system, including rheumatism, arthritis and sciatica.	External preparations for the relief of symptoms of muscular pain and stiffness and cramp.
12.	Any endocrine disease, including diabetes, thyrotoxicosis, goitre and any other organic or functional condition related to under or over activity of any part of the system.	None.
13.	Any organic condition affecting sight, hearing or balance.	Relief of symptoms by means of the local administration of eye preparations. Relief of symptoms by means of local administration of preparations as a solvent for ear wax.
14.	Any disease of the skin, hair or scalp.	Prevention or treatment of dandruff by means of external applications. Prevention of pimples. Relief of symptoms of eczema and allergies by oral antihistamine preparations. Treatment, where applied to an external surface of the body, of pimples, eczema, skin allergies, athlete's foot and fungal nail infection. Prevention or treatment of contact dermatitis and sunburn by means of protective external applications. Treatment of hard skin and corns by means of the application of corn plasters or solvents. Relief or prevention of common minor skin conditions including dry and chapped skin, cold sores, pruritus, insect bites, heat rash and napkin rash.

(Schedule 1 added 65 of 1988 s. 8. Amended 16 of 2005 ss. 9 & 11)

Schedule:	2	Purposes for which it is Prohibited to Advertise any Medicine, Surgical Appliance or Treatment	E.R. 2 of 2012	02/08/2012
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[section 3]

1. The induction of menstruation or relief of amenorrhea or delayed menstruation or any other gynaecological or obstetrical disease.
2. The promotion of sexual virility, desire or fertility, or the restoration of lost youth.
3. The correction of deformity or the surgical alteration of a person's appearance.

(Schedule 2 added 65 of 1988 s. 8)

Schedule:	3	(Repealed 65 of 1988 s. 11)		30/06/1997
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Schedule:	4	Claims for Orally Consumed Products in respect of which Advertisements are Prohibited or Restricted	E.R. 2 of 2012	02/08/2012
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[section 3B]

Column 1 Claim	Column 2 Exemption
1. Prevention, elimination or treatment of breast lumps, including eliminating the blockage of milk ducts of the breast, helping to eliminate disease-causing factors or lumps, relieving the associated discomfort symptoms, helping to improve the metabolism of breast tissue, effectively disintegrating and eliminating abnormal cell tissues and lumps.	None.
2. Regulation of the function of the genitourinary system and/or improvement of symptoms of genitourinary problems such as frequent urination, urgent urination, dripping urination, poor stream, difficulty in urination, urination at night, impeded prostatic function and uncontrollable urinary discharge or incontinence.	None.
3. Regulation of the endocrine system and/or maintenance or alteration of hormonal secretions, including helping to maintain hormones at optimal level, stimulating the hypothalamus, increasing secretion of oestrogen, promoting normal secretion of the female hormone, regulating the female endocrine function, improving imbalance of male hormone secretion, helping to maintain balance of hormonal secretions in men and women, stimulating hormonal secretions, regulating endocrine secretion, balancing endocrine secretion, increasing secretion of growth hormone, stimulating the thyroid gland.	None.
4. Regulation of body sugar or glucose and/or alteration of the function of the pancreas, including regulating blood sugar, suppressing or reducing the absorption of glucose, reducing the blood sugar level, increasing the metabolism of body sugar, being suitable for diabetic patients, being	<p>(a) Subject to paragraph (b), the following claims are allowed—</p> <ul style="list-style-type: none"> (i) “This product is suitable for people concerned about blood sugar. 此產品適合關注血糖的人士服用。”； (ii) “This product may assist in stabilizing blood sugar. 此產品或有助於穩定血糖。”；

against blood sugar, being suitable for people with high blood sugar, improving the function of the pancreas, stimulating the secretion of insulin.

- (iii) “This product is intended for people concerned about blood sugar. 此產品以關注血糖的人士為對象。” ; and
- (iv) “This product is for the consumption by people concerned about blood sugar. 此產品供關注血糖的人士服用。”.
 - (b) In relation to a product which is not registered under the Pharmacy and Poisons Ordinance (Cap 138) or the Chinese Medicine Ordinance (Cap 549), the claims referred to in paragraph (a)(i), (ii), (iii) and (iv) are allowed only if the advertisement clearly includes the following disclaimer—

“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. 此產品沒有根據《藥劑業及毒藥條例》或《中醫藥條例》註冊。為此產品作出的任何聲稱亦沒有為進行該等註冊而接受評核。此產品並不供作診斷、治療或預防任何疾病之用。”.
(See Note)

5. Regulation of blood pressure, including regulating blood pressure, controlling blood pressure, reducing blood pressure, being suitable for people with high blood pressure.

- (a) Subject to paragraph (b), the following claims are allowed—
 - (i) “This product is suitable for people concerned about blood pressure. 此產品適合關注血壓的人士服用。”;
 - (ii) “This product may assist in stabilizing blood pressure. 此產品或有助於穩定血壓。”;
 - (iii) “This product is intended for people concerned about blood pressure. 此產品以關注血壓的人士為對象。” ; and
 - (iv) “This product is for the consumption by people concerned about blood pressure. 此產品供關注血壓的人士服用。”.
 - (b) In relation to a product which is not registered under the Pharmacy and Poisons Ordinance (Cap 138) or the Chinese Medicine Ordinance (Cap 549), the claims referred to in paragraph (a)(i), (ii), (iii) and (iv) are allowed only if the advertisement clearly includes the following disclaimer—

“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. 此產品沒有根據《藥劑業及毒藥條例》或《中醫藥條例》註冊。為此產品作出的任何聲稱亦沒有為進行該等註冊而接受評核。此產品並不供作診斷、治療或預防任何疾病之用。”.
(See Note)

及毒藥條例》或《中醫藥條例》註冊。為此產品作出的任何聲稱亦沒有為進行該等註冊而接受評核。此產品並不供作診斷、治療或預防任何疾病之用。”。

(See Note)

6. Regulation of blood lipids or cholesterol, including preventing high blood lipids, helping to maintain normal blood lipids, lowering blood lipids, reducing or regulating cholesterol, balancing blood cholesterol, excreting cholesterol in the blood vessel outside the body, being suitable for people with high blood lipids or high cholesterol.

(a) Subject to paragraph (b), the following claims are allowed—

- (i) “This product is suitable for people concerned about blood lipids/cholesterol. 此產品適合關注血脂／膽固醇的人士服用。”；
- (ii) “This product may assist in stabilizing blood lipids/cholesterol. 此產品或有助於穩定血脂／膽固醇。”；
- (iii) “This product is intended for people concerned about blood lipids/cholesterol. 此產品以關注血脂／膽固醇的人士為對象。”； and
- (iv) “This product is for the consumption by people concerned about blood lipids/cholesterol. 此產品供關注血脂／膽固醇的人士服用。”。

(b) In relation to a product which is not registered under the Pharmacy and Poisons Ordinance (Cap 138) or the Chinese Medicine Ordinance (Cap 549), the claims referred to in paragraph (a)(i), (ii), (iii) and (iv) are allowed only if the advertisement clearly includes the following disclaimer—

“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. 此產品沒有根據《藥劑業及毒藥條例》或《中醫藥條例》註冊。為此產品作出的任何聲稱亦沒有為進行該等註冊而接受評核。此產品並不供作診斷、治療或預防任何疾病之用。”。

(See Note)

Note: If the advertisement is wholly or mainly in the English or Chinese language, a claim stated in column 2 may be limited to that language, but where there is included in the same advertisement any other claim or disclaimer that is stated in column 2, that other claim or disclaimer (as the case may be) shall also be limited to that language.

(Schedule 4 added 16 of 2005 s. 10)