

Advertising of Personal Injury Services by Lawyers in Hospitals

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Functional Sub group Corporate Administration - Communications

Summary Advertising of personal injury services by lawyers in hospitals.

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations, NSW Ambulance Service, NSW Dept of Health, Private Hospitals and Day Procedure Centres, Private Nursing Homes, Public Hospitals

Distributed to Public Health System, NSW Ambulance Service, NSW Department of Health, Public Hospitals, Private Hospitals and Day Procedure Centres, Private Nursing Homes

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Director-General

Compliance with this policy directive is mandatory.

CIRCULAR

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ADVERTISING OF PERSONAL INJURY SERVICES BY LAWYERS IN HOSPITALS

The Legal Profession Amendment (Advertising) Regulation 2002 was published in the Government Gazette on 1 March 2002 and took effect on 1 April 2002.

The 2002 Regulation creates new restrictions on the manner and advertising of personal injury services by barristers or solicitors. "Personal injury" is defined to include death, pre-natal injury, psychological or psychiatric injury and disease.

Lawyers may now only advertise personal injury services by way of a statement of the name and contact details of the practitioner, along with information as to any area of practice or specialty of the lawyer. The Regulation provides that "advertising" personal injury services includes publication of statements that would be likely to encourage a person to make a claim for compensation or damages or use the services of a legal practitioner in connection with such a claim.

The Regulation also sets out various "allowable publication methods" for such statements, which include listing in a printed publication, Internet directories or databases published independently of the lawyer, public exhibition on buildings, vehicles etc, and by way of leaflets and flyers etc.

Exhibition in or on a public hospital, licensed private facility or nursing home or displayed in any printed documents gratuitously sent or delivered to or left in such premises or on any vehicle in the vicinity of such premises, is not an allowable publication method.

The consequences of advertising in a way that is now restricted are strictly a matter for the lawyer concerned. However public health organisations should make local arrangements to remove from hospital premises any material that would appear to be in contravention of the new restrictions. Where advertising material has been placed in hospital premises, such as lifts, under a contract with a lawyer, its early removal should be negotiated with the lawyer. Hospitals should also review any written material that may be currently or in the future distributed to patients or on hospital premises in light of the new restrictions. Circular 96/2 (Recommendation of Service Providers to Patients by Staff of Health Organisations) continues to allow the listing of lawyers in a general way by way of community resource information.

Robert McGregor
Acting Director-General

Distributed in accordance with circular list(s):

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In accordance with the provisions incorporated in the Accounts and Audit Determination, the Board of Directors, Chief Executive Officers and their equivalents, within a public health organisation, shall be held responsible for ensuring the observance of Departmental policy (including circulars and procedure manuals) as issued by the Minister and the Director-General of the Department of Health.