

COMPLAINT NUMBER	21/543
ADVERTISER	New Zealand Herbals Limited
ADVERTISEMENT	Live Blood Analysis, Website
DATE OF MEETING	18 January 2021
OUTCOME	Settled – advertisement removed No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board ruled to settle a complaint about an advertisement for a live blood analysis service which featured on the New Zealand Herbals Limited website. The Complaints Board acknowledged the Advertiser had confirmed the service was no longer available and the advertisement had been removed from the website.

Advertisement

The New Zealand Herbals Limited web page for Live Blood Analysis, <https://nzherbal.co.nz/our-services/>, promotes that the service "does not diagnose disease" but is used as "an adjunct to a more comprehensive case history and analysis". It explains the role of blood in the body and what the size, shape and distribution of red blood cells can reveal about a person's health. The advertisement makes claims about the service highlighting conditions such as nutritional deficiencies, pesticide exposure, heavy metal toxicity, viral or allergic reactions or heart disease indicators. The text indicates that prescribed treatments as a result of the service tend to be diet and nutrition based.

Summary of the Complaint

The Complainant was concerned the advertisement makes unsubstantiated therapeutic health claims which could be misleading.

Issues Raised:

- Truthful presentation

Summary of the Advertiser's Response

The Advertiser initially provided a Food Detective Technical Report (including a bibliography of abstract studies), CV and testimonials as substantiation. Subsequently the Advertiser confirmed the advertisement had been removed and the live blood analysis was no longer a service on offer.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

THERAPEUTIC AND HEALTH ADVERTISING CODE

Principle 2: Truthful Presentation: Advertisements shall be truthful, balanced and not misleading. Advertisements shall not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

Rule 2 (a) Truthful presentation: Advertisements shall be accurate. Statements and claims shall be valid and shall be able to be substantiated. Substantiation should exist prior to a claim being made. For medicines and medical devices, therapeutic claims must be consistent with the approved indication(s) (for medicines) or the listed intended purpose (for medical devices).

Definitions:

‘Therapeutic Purpose’ – The Medicines Act provides the following definition:

- (a) preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury; or
- (b) influencing, inhibiting, or modifying a physiological process; or
- (c) testing the susceptibility of persons to a disease or ailment; or
- (d) influencing, controlling, or preventing conception; or
- (e) testing for pregnancy; or
- (f) investigating, replacing, or modifying parts of the human anatomy.

‘Health Services’ – includes services that offer a method of treatment for a range of medical conditions or services that offer support for normal healthy body functions.

‘Method of Treatment’ - Any method of treatment for reward undertaken, or represented to be undertaken, for a therapeutic purpose.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to precedent Decision 21/122 which was settled.

The full version of this decision can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 21/122 concerned a website advertisement for All About Health and Wellness promoting live blood screening which claimed to assist with a range of health issues.

The Complainant was concerned the advertisement contained unsubstantiated therapeutic claims which could be misleading. Upon receipt of the complaint, the Advertiser amended the advertisement, removing references which were of concern. The Chair of the Complaints Board ruled the complaint was settled.

Complaints Board Discussion

The Chair noted that the Complaints Board’s role was to consider whether there had been a breach of the Therapeutic and Health Advertising Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: Therapeutic health services
 - Medium: Website advertisement
 - Audience: Consumers interested in examining potential markers in the blood
 - Product: Analysis of live blood to observe effect of lifestyle on cells.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement would be the promotion of a live blood analysis service which supports other tests (which diagnose health conditions) and offers treatment such as nutritional programs. The Board noted the advertisement specifically referred to nutritional deficiencies, pesticide exposure, heavy metal toxicity, viral or allergic reactions or heart disease indicators which consumers were likely to interpret as an implied claim that the service diagnosed conditions. The Board noted the service also claims to be able to track whether treatment is having the desired effect.

Is the advertisement making therapeutic claims about a health service?

The Complaints Board agreed the advertisement for a live blood analysis was making therapeutic claims which required substantiation. The Board said it would expect substantiation from the Advertiser to support such therapeutic claims to include well-designed clinical studies that have been published in peer-reviewed journals.

The Complaints Board noted the Advertiser had provided a CV and testimonials as substantiation which it said was not sufficient and it said the advertisement was in breach of Principle 2 and Rule 2(a) of the Therapeutic and Health Advertising Code.

However, the Complaints Board acknowledged the confirmation from the Advertiser that live blood analysis was no longer a service offered by the Advertiser and the advertisement had been removed from the website.

Given the Advertiser's cooperative engagement with the process and the self-regulatory action taken in removing the advertisement, the equivalent action the Board could request if it upheld the complaint, the Complaints Board said the complaint was settled.

Outcome

The Complaints Board ruled the complaint was **Settled**.

No further action required

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website, www.asa.co.nz. Appeals must be made in writing with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

New Zealand Herbals advertises 3 types of testing/services which have no credible scientific proof of efficacy. Live Blood Analysis Blood is the life-maintaining fluid that circulates through the body's heart, arteries, veins and capillaries. Blood is the river of life that delivers nourishment, electrolytes, hormones, vitamins, antibodies, heat and oxygen. Blood carries waste matter and carbon dioxide away. The blood stream is also a microcosm of the overall health of the individual, and as such is ideal as part of an overall health examination. Preference is for live blood analysis as it focuses on a nutritional perspective, only one or two drops are necessary and blood is taken fresh and immediately (blood will deteriorate after 10 minutes of being outside the body.) Live blood analysis does not diagnose disease, and is used here as an adjunct to a more comprehensive case history and analysis. It requires a small drop of blood, which is examined under a microscope. The blood sample is projected onto a computer screen, where you can view and discuss it with your practitioner. The results are immediately available so there are no long waits for the results. Patients often describe the experience of being able to see their own blood as absolutely fantastic because they can see the effects of their lifestyle on their cells. Sometimes it's a real revelation. We will examine the red blood cells for size, shape and distribution. Abnormalities can indicate the body's increased requirements for particular nutrients such as Iron, Vitamin B12 and Folic Acid. Damaged cells can be present indicating possible free radical damage. In this instance your medical history, symptoms or other testing can reveal the reason for this. It could however be due to such things as pesticide exposure or heavy metal toxicity. If you see excessive fat in the sample or if your cells stick together, you may have an increased risk of heart disease. The various white blood cells will be evaluated and abnormalities could reveal viral or bacterial infections or an allergic response. Live Blood Analysis can also be utilized to track whether your treatment is having the desired effect on your body. As your body heals, the blood cells will return to normal. Treatment protocols are based on nutritional programs involving mainly diet and nutritional supplements – this is not a drug based modality. None of the 3 tests they advertise have any credible scientific evidence which proves they are effective for diagnosis of anything, including nutritional deficiency. Complaint: I submit that this this advertiser has information on their website which in is breach of PRINCIPLE 2: TRUTHFUL PRESENTATION: Rule 2 (a) Truthful Presentation

Appendix 2

RESPONSE FROM ADVERTISER, NEW ZEALAND HERBALS LIMITED

This complaint is nonsense. I have been practicing for over 40 years. Have seen to date around 30,000 patients and have an unblemished record with high levels of success and credibility.

I understand that testimonials are considered anecdotal – I don't

Please see two presentations and NO I will not stop telling my truth and when it comes to Iridology that is who I am, it's what I do and my main method of analysis and it works and its true and authentic

You would think this guy / organisation would have something better to do during these difficult times!?

**FURTHER FROM ADVERTISER WHEN ASKED TO CONFIRM REMOVAL OF
ADVERTISEMENTS BY SECRETARIAT**

That's correct, they have been removed. No longer offering those services.