

Zengin, G. (2025). Penalties And Sanctions for Healthcare Providers' Advertising and Promotion Activities: An Analysis of Advertising Board Decisions, *Kritik İletişim Çalışmaları Dergisi*, 7(1), 212-231.

Penalties And Sanctions For Healthcare Providers' Advertising And Promotion Activities: An Analysis Of Advertising Board Decisions*

Sağlık Hizmeti Verenlerin Reklam ve Tanıtım Faaliyetlerine Uygulanan Ceza ve Yaptırımlar: Reklam Kurulu Kararları Üzerine Bir İnceleme

Güldane ZENGİN^a

Doi: 10.53281/kritik.1659220

^aDoç. Dr., Selçuk Üniversitesi, Reklamcılık Bölümü, 0000-0001-6816-1618

MAKALE BİLGİLERİ

Makale:

Gönderim Tarihi	16.03.2025
Ön Değerlendirme	26.03.2025
Kabul Tarihi	22.06.2025

Anahtar Kelimeler:

Reklam, Sağlık Tanıtımı, Yasal Düzenlemeler

Key Words:

Advertising, Health Promotion, Legal Regulations.

ABSTRACT

In the healthcare field, there are rules that healthcare institutions and healthcare professionals must follow regarding advertising and promotion, and these rules are determined by various regulations. These strictly defined rules are sometimes violated by healthcare professionals and healthcare institutions, especially on social media platforms where supervision is more difficult. When those who violate these rules are reported, they are examined by the Advertising Board within the Republic of Turkey Ministry of Trade, and the results of their evaluations are announced in monthly press releases. Therefore, this study aims to reveal which rules and regulations are violated by healthcare professionals and healthcare institutions, the reasons for these violations, and the sanctions applied. The press releases published by the Advertising Board in 2022 were examined, and a total of 273 complaints were analyzed using content analysis technique. It was found that most of those penalized made advertising posts on Instagram (86.4%), almost all posts contained service promotion (98.5%), and in terms of ethical problems, the most common violation was sharing before/after treatment images (37%). The main reasons for penalties included creating demand for services (96.7%), giving commercial appearance (95.6%), exceeding permitted information limits (92.3%), and violating promotional boundaries (74.3%). However, despite these violations, it was observed that the penalty of suspension of the advertisement (99.6%) was given as a sanction. It was concluded that healthcare institutions and healthcare professionals frequently violate legal regulations on social media platforms. These violations are largely carried out for service promotion and demand generation purposes, however, the sanctions remain lenient.

ÖZET

Sağlık alanında, sağlık kurumları ve sağlık çalışanlarının reklam ve tanıtım konusunda uyması gereken kurallar vardır ve bu kurallar çeşitli yönetmeliklerle belirlenmiştir. Oldukça sıkı bir şekilde çerçevesi çizilen kurallar kimi zaman özellikle denetimin daha zor olduğu sosyal medya platformlarında sağlık çalışanları ve sağlık kuruluşları

* This paper is an extended version of the study originally presented at 3rd International Conference on Humanity and Social Sciences in Cape Town on January 25-29, 2023.

tarafından çiğnenmektedir. Bu kuralları çiğneyenler ise şikâyet edildiklerinde T.C Ticaret Bakanlığı bünyesindeki Reklam Kurulu tarafından incelenmekte ve değerlendirmelerinin sonuçları her ay yayınlanan basın bültenlerinde duyurulmaktadır. Dolayısıyla bu çalışmada sağlık çalışanları ve sağlık kurumlarının hangi kuralları ve yönetmelikleri ihlal ettiklerini, bu ihlallerin nedenlerini ve uygulanan yaptırımları ortaya koyma amaçlanmaktadır. Reklam Kurulu'nun 2022 yılında yayımladıkları basın bültenleri incelenmiş ve toplamda konuyla ilgili 273 şikâyet içerik analizi tekniği ile analiz edilmiştir. Ceza alanların çoğunun Instagram'da reklam içeren paylaşımlar yaptığı (%86,4), paylaşımların neredeyse tamamında hizmet tanıtımı içerdiği (%98,5), etik problemler bağlamında bakıldığında daha çok tedavi öncesi/sonrası görüntü paylaşımı (%37) olduğu, ceza verme gerekçelerinin pek çoğunda hizmete yönelik talep oluşturma (%96,7), ticari görünüm kazandırma (%95,6), izin verilen bilgilendirme sınırlarını aşma (%92,3), tanıtım sınırlarını ihlal etme (%74,3) olduğu görülmektedir. Ancak buna rağmen yaptırım olarak anılan reklamı durdurma cezasının (%99,6) verildiği görülmektedir. Sağlık kuruluşları ve sağlık çalışanlarının sosyal medya platformlarında yasal düzenlemeleri sıklıkla ihlal ettiği, bu ihlallerin büyük oranda hizmet tanıtımı ve talep oluşturma amacıyla gerçekleştirildiği, buna karşın yaptırımların hafif kaldığı sonucuna ulaşılmıştır.

© 2018- e-ISSN 2667-6850

INTRODUCTION

Advertising professionals think of every touch point that they can interact with as a medium to communicate their brand messages. An individual may look up or down, or stand still, yet get exposed to some advertising. It is safe to say that advertising is an integral part of our everyday lives. Social media platforms are gaining importance for advertisers as they gain users. Individuals, as well as businesses, can take advantage of social media to promote products and services. There are people who want to advertise their products and services in the field of health as well. Some doctors, dentists, clinics, and private hospitals particularly choose social media for publicity. Social media helps individuals to craft a solid image, gain respect, and appear knowledgeable (Şimşek, 2014, p. 236). However, there is a core problem, that is, advertising is severely limited in health services. There are many laws and regulations prohibiting advertising in this field. In spite of these laws and regulations, some individuals and organizations providing health services may violate these rules implicitly or explicitly to advertise; in some cases, even blatantly ignoring the code of ethics of the field. Turkish Ministry of Trade, Presidency of Advertising Council issues sanctions and penalties to violators of advertising regulations in all sectors, including the field of health services. Still, advertising of health services continues to run, especially on social media. The present research aims to analyze sanctions and penalties issued by the council, reveal what type of sanctions and penalties were issued, and the laws and regulations they are based on.

1. Literature Review

1.1. Advertising

Since prohibitions and penalties are in question, a need for making definitions arises. American Marketing Association (n.d.) defines advertising as “Advertising is the placement of announcements and messages in time or space by business firms, nonprofit organizations, government agencies, and individuals who seek to inform and/or persuade members of a particular target market or audience regarding their products, services, organizations or ideas. On the other hand, The Consumer Protection Act No. 6502 of Türkiye (2013) defines advertising as follows: Commercial advertisements are announcements which are of marketing communications nature, carried by advertisers on any of the media that involves texts, images or audio, with the aim of selling or renting a product of a service, informing or persuading the target audience, in connection with trade, business, craftsmanship or profession. In addition, there are textbook definitions of advertising. Moriarty, Mitchell and Wells (2012, p. 7) defines advertising as “a paid form of persuasive communication that uses mass and interactive media to reach broad audiences in order to connect an identified sponsor with buyers (a target audience), provide information about products (goods, services, and ideas), and interpret the product features in terms of the customer’s needs and wants.”. The authors also argue that advertising has three evolving roles: Identification (identifying a product and its point of sale), information (providing information about a product), and persuasion (persuading people to buy a product).

Article 61/4 of The Consumer Protection Act No. 6502 (2013) defines covert advertising as the use of branding, name, logo, or other distinctive shapes and expressions; trade names or business names for advertising and promotion purposes, without clear disclosure, in any text, news, publications or shows; and it is prohibited on any medium. Covert advertising is widespread on social media.

Products and services are advertised in a covert way and consumers unaware of the commercial intent trust the claims made, thus their consumption preferences are influenced (Korkmaz, 2022, p. 182). Although there are many limitations regarding advertising of health-related products and services, this does not stop advertisers. They continue to advertise through various channels, but this results in the possibility of misinforming consumers, since supervision is lacking. Both public and private health institutions can be observed using covert advertising methods in violation of laws and regulations (Ekiyor & Tengilimoğlu, 2014, p. 49).

In health communication, the relationship between the doctor and the patient is vital for preserving health. Consumers may come across patients who found a cure in the treatment of a doctor or a health institution in some “announcements”. These may not look like advertising; however, health-related products and services are present in various media, and this opens the doors to covert advertising (Çamdereli & Kocabay Şener, 2016, p. 222).

1.2. Advertising Prohibitions

There are several laws and regulations on advertising in health services. The Advertising Board, operating under the authority of the Ministry of Trade of the Republic of Turkey, implements its sanctions in accordance with this regulatory framework.

Article 24 of Law on the Practice of Medicine and Related Arts No. 1219 (1928) states that doctors can make their field of expertise, address, and office hours, but cannot advertise.

Articles 8, 9 and 39 of the Regulation on Medical Deontology (1960) state that doctors and dentists cannot give their offices a commercial appearance. They cannot advertise their services in their articles. They cannot advertise copies praising their services. Local medical associations will be specifying the size and number of signboards. No more than two colors are allowed and decorating signboards with light is forbidden.

Article 5/1-c of the Regulation on Job and Job Descriptions of Healthcare Professionals and Other Professionals Working in Healthcare Services (2014) states that misleading, demand-increasing, self-praising promotions; campaigns; and any form of advertising, are not allowed. Only names, titles, areas of expertise, and address are allowed.

Article 29 of the Regulation on Private Health Institutions that are practicing Outpatient Diagnosis and Treatment (2014) states that health institutions cannot advertise. Health institutions can only promote to improve health and inform the public. This information must be provided by authorized health professionals. Health institutions cannot undertake promotional activities that are misleading, aimed at creating demand, based on scientifically unproven or uncommon medical practices, against medical deontology and ethics. They cannot undertake actions that are unfairly competitive compared to other medical institutions. They must use their exact licensed name on their signboards and on digital platforms; it is prohibited to use a different name.

Commercial Advertising and Unfair Commercial Practices Regulation (2015): According to

Article 6 of this regulation, an advertisement should be easily distinguished from other content, no matter what medium is used. It is prohibited to embed advertising into a text or a show in a way that prevents consumers from realizing its true nature. Article 7 of this regulation states that advertising should be true and honest. Advertisements should be created in a responsible manner, both economically and socially. They should not cause unfair competition. They should be created taking consumers' perception levels and the effect on consumers into account. Advertisements do not breach consumer trust or make use of consumers' lack of information. Advertising cannot contain any expressions or images that may mislead consumers either directly or indirectly, on any topic.

Article 61 of The Consumer Protection Act No. 6502 (2013) Article 61/1 defines commercial advertising, which was covered in the “advertising” topic of this study. Articles 61/2 and 3 elaborate on commercial advertisement. According to this, commercial advertising should follow the principles defined by the Advertising Council, should be in accordance with general morals, public order, and personal rights, and should be correct and honest. Advertising cannot mislead consumers or take advantage of consumers' lack of information, cannot endanger their lives and possessions, cannot encourage violence and crime, cannot disrupt public health, cannot exploit the ill, elderly, children, or disabled. Article 61/4 defines covert advertising, and this was also mentioned before in this study. Among other paragraphs of this article: Comparative advertising of products or services that satisfy the same need or have the same purpose is forbidden. Advertisers and advertising agencies, as well as media organizations, are obliged to prove claims that are made in advertising.

Article 60 of the Private Hospitals Regulation (2025): This article includes items about signboards from the regulation on Private Health Institutions that are practicing Outpatient Diagnosis and Treatment. In addition, to prevent confusion and misunderstanding, naming private hospitals similar to public and university hospitals is prohibited, even if they are located in other cities.

Article 25 of Regulation on Private Health Institutions Providing Oral and Dental Health Services (2022): Article 60 of the Private Hospitals Regulation also applies to private health institutions providing oral and dental health services. Signboards are regulated by the Turkish Dental Association.

The rules concerning health-related advertising in the European countries share significant similarities with those implemented in Türkiye. For example, In the United Kingdom, advertising activities are regulated by the Advertising Standards Authority (ASA) and The Committee of Advertising Practice (CAP). The regulations pertain specifically to marketing communications rather

than the medical products themselves, which fall under the jurisdiction of designated health authorities such as the Medicines and Healthcare products Regulatory Agency (MHRA), and the Department of Health and Social Care (DHSC). According to ASA regulations, any health-related advertisement must not be designed in a way that induces fear, anxiety, or emotional pressure in the public. Likewise, it is strictly prohibited to claim that a product or service offers a guaranteed cure, to exaggerate treatment outcomes, or to include scientifically unverified claims. Advertisements for aesthetic interventions are subject to additional scrutiny. The use of before-after images, phrases such as “limited-time offer” that may manipulate the consumer’s decision-making process, and deceptive safety claims like “100% safe” are deemed unethical and misleading. Moreover, the direct promotion of prescription-only medicines to the general public is strictly prohibited. However, unlike in Türkiye, such products may be advertised through professional channels directed exclusively at healthcare practitioners. All claims made in advertising content must be evidence-based and scientifically substantiated, with the capacity to be supported by objective data when required. Additionally, the use of medical titles, expert opinions, or medical doctor (MD) endorsements is only permitted under the condition that they do not mislead the target audience and serve to reinforce the scientific validity of the product or service being advertised (ASA, n.d.). In Germany, the advertising activities of healthcare professionals are regulated by frameworks such as the FSA Code of Conduct for Healthcare Professionals, the Professional Code of the German Medical Association, and the EFPIA Code of Practice. Advertising related to pharmaceuticals and healthcare products is governed by ethical guidelines that emphasize consumer protection against misleading information and require a basis in scientific evidence. Over-the-counter products may be promoted in digital media; however, covert advertising, exaggerated claims, and manipulative practices are prohibited. Promotions conducted by influencers or healthcare professionals must be clearly disclosed as advertising. Violations may result in penalties such as fines and advertising bans (Dieners & Kießling, 2024).

2. Method

In this study, sanctions and penalties issued in 2022 by the Turkish Ministry of Trade Council of Advertising in the field of health were analyzed. A quantitative content analysis was conducted on the press releases published by the council. Content analysis is a technique for collecting and analyzing textual content. Through content analysis, the content of multiple texts can be compared and analyzed using quantitative techniques. Additionally, it can reveal aspects of the text that are difficult to notice. In quantitative content analysis, an objective and systematic procedure of counting and recording is

employed to create a numerical representation of the symbolic content of a text (Neuman, 2006, p. 466).

The press releases were split into categories such as communication services, covert advertising, technology, health, food, and tourism. They contain information about complaints, violations, sanctions, and penalties. The present research examines sanctions and penalties issued to medical doctors and health institutions as a result of complaints about advertising and promotion. This study is limited to medical doctors (including dentists), private hospitals, and clinics. The aforementioned press releases are divided into categories and one of these categories is health. However, some doctors and health institutions received sanctions and penalties under other categories such as covert advertising, and these are also included in this study. On the other hand, hair transplant centers, psychologists, dietitians, and beauty salons were excluded from the study.

Categories include file no, month, date of publication, name of the doctor or business, type of advertising, type of product, medium, reason for sanctions and penalties, violated laws and regulations, and penalties issued. Before the coding phase, a pre-test was conducted to assess the consistency of the categories in the coding form. During the coding process, in addition to the researcher, a second coder also coded the data, and agreement between the coders was achieved by resolving any disagreements that arose.

The aim of this study is to reveal what type of sanctions and penalties MDs and health institutions received, the reasons behind the decisions, and which laws and regulations were violated.

RQ1: Which sanctions and penalties did MDs and health institutions receive?

RQ2: What are the reasons behind the sanctions and penalties received?

RQ3: Which laws and regulations were violated most?

RQ4: Do MDs and health institutions differ in the sanctions and penalties they receive?

RQ5: Which medium was mentioned in the press releases most?

RQ6: What kinds of advertisements did MDs and healthcare institutions use?

This study examines sanctions and penalties issued in 2022 by the Turkish Ministry of Trade Council of Advertising in the field of health.

Table 1. Distribution of penalties issued in 2022

	Frequency	Percent	Valid Percent	Cumulative Percent
--	-----------	---------	---------------	--------------------

December	53	19.4	19.4	19.4
November	34	12.5	12.5	31.9
October	25	9.2	9.2	41.0
September	11	4.0	4.0	45.1
August	10	3.7	3.7	48.7
July	1	.4	.4	49.1
June	17	6.2	6.2	55.3
May	16	5.9	5.9	61.2
April	24	8.8	8.8	70.0
March	43	15.8	15.8	85.7
February	22	8.1	8.1	93.8
January	17	6.2	6.2	100.0
Total	273	100.0	100.0	

Turkish Ministry of Trade, Council of Advertising issued 273 penalties to medical doctors (MDs) and health institutions in 2022. The highest number of penalties were issued in December (19.4%), and the lowest in June (0.4%).

Table 2. Number of medical doctors and health institutions

	Frequency	Percent	Valid Percent	Cumulative Percent
Medical Doctor	194	71.1	71.1	71.1
Health Institution	79	28.9	28.9	100.0
Total	273	100.0	100.0	

Sanctions and penalties issued to medical doctors were more than those issued to health institutions in the months sampled.

Table 3. Type of advertising

	Frequency	Percent	Valid Percent	Cumulative Percent
Advertising of MDs' own services	269	98.5	98.5	98.5
Advertising of a product	4	1.5	1.5	100.0
Total	273	100.0	100.0	

MDs and health institutions that received sanctions and penalties were mostly advertising their own health services. There are four MDs that advertise products. These products were medical products, cosmetics, and honey.

Table 4. Advertising media

	Responses		Percent of Cases
	N	Percent	
Instagram	236	65.4%	86.4%

Website	48	13.3%	17.6%
YouTube	7	1.9%	2.6%
Facebook	62	17.2%	22.7%
Outdoor	4	1.1%	1.5%
Magazine	1	.3%	.4%
Signboard	1	.3%	.4%
Vehicle wrap	1	.3%	.4%
Coupon	1	.3%	.4%
Total	361	100.0%	132.2%

Among all cases, the most mentioned medium was Instagram (86.4%).

Table 5. Reasons for sanctions and penalties

	Responses		Percent of Cases
	N	Percent	
Giving health services a commercial appearance	261	17.6%	95.6%
Expressions aimed at creating demand for the services provided	264	17.8%	96.7%
Going beyond the permitted limits of providing information under health legislation	252	17.0%	92.3%
Going beyond the permitted limits of promotion	200	13.5%	73.3%
Of advertising nature	119	8.0%	43.6%
Patient evaluations that praise the services provided	69	4.7%	25.3%
Images shot during the treatment and/or providing information about medical procedures	71	4.8%	26.0%
No certificate to do mentioned practices.	1	.1%	.4%
Using a different name in the mentioned promotion activities	4	.3%	1.5%
Misleading and taking advantage of the lack of information	47	3.2%	17.2%
Before and after photos of the patients	101	6.8%	37.0%
Image of the product / covert advertising	4	.3%	1.5%
Leading patients to the institution	11	.7%	4.0%
Scientifically unproven	38	2.6%	13.9%
Disruptive of public health	1	.1%	.4%
Causing unfair competition	16	1.1%	5.9%
Campaign or price information	13	.9%	4.8%
Use of title that does not belong to oneself	6	.4%	2.2%
Sharing hospital environment or name where the application takes place	1	.1%	.4%
Providing unauthorized services	2	.1%	.7%
Total	1481	100.0%	542.5%

Most common reasons for sanctions and penalties stated in the council's investigations were, expressions aimed at creating demand for the services provided (96.7%), giving health services a commercial appearance (95.6%), going beyond the permitted limits of providing information under health legislation (92.3%). In almost half of the cases (43.6%) it was stated that the announcements were of an advertising nature. In addition, penalties were issued for the following reasons: Before and after photos of patients (37%), images shot during the treatment and/or providing information about medical

procedures (26%), patient evaluations that praise the services provided (25.3%).

Table 6. Laws and regulations violated

	Responses		Percent of Cases
	N	Percent	
Article 24 of Law on the Practice of Medicine and Related Arts No. 1219	242	15.3%	88.6%
Articles 8, 9 and 39 of Regulation on Medical Deontology	266	16.8%	97.4%
Regulation on Job and Job Descriptions of Healthcare Professionals and Other Professionals Working in Healthcare Services	260	16.4%	95.2%
Article 29 of the Regulation on Private Health Institutions that are practicing Outpatient Diagnosis and Treatment	194	12.2%	71.1%
Commercial Advertising and Unfair Commercial Practices Regulation	272	17.2%	99.6%
Article 61 of The Consumer Protection Act No. 6502	267	16.8%	97.8%
Additional Article 11 of Fundamental Health Services Law No. 3359	5	.3%	1.8%
Regulation on Traditional and Complementary Medicine Practices	1	.1%	.4%
Guide to Commercial Advertising and Unfair Commercial Practices by Social Media Influencers	3	.2%	1.1%
Regulation on Private Health Institutions Providing Oral and Dental Health Services	41	2.6%	15.0%
Private Hospitals Regulation	29	1.8%	10.6%
Regulation on Health Claims of Products Offered for Sale with Health Declaration	1	.1%	.4%
Turkish Food Codex Regulation on Food Labeling and Consumer Information	1	.1%	.4%
Turkish Food Codex Regulation on Nutrition and Health Claims	1	.1%	.4%
Veterinary Services, Plant Health, Food and Feed No 5996	1	.1%	.4%
Article 45 of Turkish Dental Association Law No. 3224	1	.1%	.4%
Total	1585	100.0%	580.6%

Commercial Advertising and Unfair Commercial Practices Regulation (99.6%) was the most violated regulation. It is followed by Article 61 of The Consumer Protection Act No. 6502 (97.8%), Articles 8, 9, and 39 of Regulation on Medical Deontology (97.4%), Regulation on Job and Job Descriptions of Healthcare Professionals and Other Professionals Working in Healthcare Services (95.2%), article 24 of Law on the Practice of Medicine and Related Arts No. 1219 (88.6%).

Table 7. Types of sanctions and penalties

	Responses		Percent of Cases
	N	Percent	N
Order to suspend advertising	272	94.8%	99.6%
Administrative Penalty (monetary fines)	14	4.9%	5.1%
No one found to issue sanctions or penalties	1	.3%	.4%
Total	287	100.0%	105.1%

MDs and health institutions received orders to suspend advertising most of the time (99.6%).

Administrative penalties (monetary fines) were issued much less (5.1%).

Crosstabulations revealed that both MDs and health institutions were issued sanctions and penalties mostly (87.6%) because what they share on Instagram. Although relatively low, MDs also received sanctions and penalties based on their advertising and promotion efforts on Facebook (23.7%), website (17%) and YouTube (2.6%). For health institutions it was Facebook (20.3%), website (19%), outdoor (5.1%), YouTube (2.5%) and various media such as magazines, vehicle wrap and coupons.

Another crosstabulation was conducted to reveal differences in reasons of sanctions and penalties between MDs and health institutions. MDs were issued sanctions and penalties for sharing expressions aimed at creating demand for the services provided (96.4%), giving health services a commercial appearance (95.9%), and going beyond the permitted limits of providing information under health legislation (92.3%). For health institutions, it is expressions aimed at creating demand for the services provided (97.5%), giving health services a commercial appearance (94.9%), going beyond the permitted limits of providing information under health legislation (92.4%), and going beyond the permitted limits of publicity (83.5%).

Doctors were violating Article 61 of The Consumer Protection Act No. 6502 (100%) in all cases. This is followed by the Commercial Advertising and Unfair Commercial Practices Regulation (99.5%), Articles 8, 9, and 39 of the Regulation on Medical Deontology (96.9%), Regulation on Job and Job Descriptions of Healthcare Professionals and Other Professionals Working in Healthcare Services (96.4%), and article 24 of Law on the Practice of Medicine and Related Arts No. 1219 (95.4%). Health institutions on the other hand violated Commercial Advertising and Unfair Commercial Practices Regulation (100%), article 8, 9 and 39 of Regulation on Medical Deontology (98.7%), Regulation on Job and Job Descriptions of Healthcare Professionals and Other Professionals Working in Healthcare Services (92.4%) and article 61 of The Consumer Protection Act No. 6502 (92.4%).

Crosstabulations revealed that cease of advertising was the most common type of sanction issued to MDs. Administrative penalties were issued to 4.1% of the MDs. On a single occasion, no one was found to issue a penalty. Health institutions on the other hand received a cease of advertising as a sanction in all cases. Administrative penalties were issued in 7.6% of the cases.

Table 8. Reasons for administrative penalties

	Responses		Percent of Cases
	N	Percent	
Giving health services a commercial appearance	10	14.3%	71.4%

Expressions aimed at creating demand for the services provided	11	15.7%	78.6%
Going beyond the permitted limits of providing information under health legislation	10	14.3%	71.4%
Going beyond the permitted limits of promotion	9	12.9%	64.3%
Of advertising nature	8	11.4%	57.1%
Patient evaluations that are praising the services provided	2	2.9%	14.3%
Images shot during the treatment and/or providing information about medical procedures	2	2.9%	14.3%
Using a different name in the mentioned promotion activities	1	1.4%	7.1%
Misleading and taking advantage of the lack of information	4	5.7%	28.6%
Before and after photos of the patients	4	5.7%	28.6%
Scientifically unproven	3	4.3%	21.4%
Causing unfair competition	1	1.4%	7.1%
Campaign or price information	2	2.9%	14.3%
Sharing hospital environment or name where the application takes place	1	1.4%	7.1%
Providing unauthorized services	2	2.9%	14.3%
Total	70	100.0%	500.0%

Among the cases where doctors and health institutions received administrative penalties, making expressions aimed at creating demand for the services (78.6%), giving health services a commercial appearance (71.4%), going beyond the permitted limits of providing information under health legislation (71.4%) had the highest ratios. Other items can be seen from the table. It should also be noted that there were no penalties issued for covert advertising.

DISCUSSION AND CONCLUSION

This study analyzes press releases published in 2022 by the Turkish Ministry of Trade Presidency of Advertising Council. Among these press releases, 273 cases about health services were included in this study. Most of the sanctions and penalties were issued in December (19.4%) and the least was in June (0.4%). It should be noted that cases published in press releases belong to inspections carried out in previous months, i.e. it can't be said that there is a surge in violations in December. Among all cases, it can be seen that medical doctors (MDs) received more sanctions and penalties than health institutions. The most common medium of violation is Instagram (86.4%) and this does not differ either it is MDs, or health institutions.

Existing studies on the topic include surveys about health-related advertisements (Ekiyor & Tengilimoğlu, 2014; Gençyürek Erdoğan, 2019); healthcare professionals' views on drug advertisements (Şencan & Uyar, 2014), case studies (Gürdin, 2017) content analysis (Ağırbaş et al., 2011; Santas et al., 2017; Erbay & Yalçın, 2018; Zengin G. , 2023), as well as studies examining the legal dimensions of the subject (Güler, 2006; Motur & Tatlı, 2021; Özdemir, 2015; Özdemir, 2018).

Two of the studies mentioned above are surveys. According to Ekiyor and Tengilimlioğlu (2014)'s study, most participants believe that advertisements promoting products that threaten human health should not be published. Consumers stated that they are not against advertising in the health sector and also find the regulations regarding advertising in the health sector insufficient. In Gençyürek Erdoğan (2019)'s study, while most participants could easily distinguish whether health-related messages were advertisements, it was revealed that they were unaware of the advertising restrictions in the healthcare sector.

Gürdin (2017) examined case studies on advertising in the health sector. According to her study, the promotional materials were created without considering the restrictions, inspections are insufficient, misleading, exaggerated, and unfair competitive promotions are frequently encountered. Since laws, regulations, and similar practices related to patient rights or healthcare services are not fully known by the public, physicians/dentists and private healthcare institutions provide misleading, exaggerated, exploitative information that takes advantage of patients' lack of experience and knowledge, and sometimes even induces panic. This is said to enable them to gain unfair competitive advantages against their colleagues, create demand as if healthcare institutions were mere commercial establishments, and view patients as commodities.

In the article by Şencan and Uyar (2014), which sought to understand the personal and professional perspectives of healthcare professionals active in NGOs regarding drug advertisements and direct-to-consumer drug ads through focus group interviews, concerns were raised about drug companies' ability to provide information impartially. The participants were worried that commercial organizations, driven by profit motives, might attempt to sell products they know are not the best, and potentially even hide the negative effects of their products to maintain high profit levels.

In their study, Ağırbaş et al. (2011) examined the Advertising Board decisions from 2010. Internet advertisements received the most penalties. Advertisements aimed at creating demand constituted 70.9%. Advertisement suspension penalties were significantly higher than monetary fines. No changes were observed regarding sanctions.

Santas et al. (2017) examined the Advertising Board Decisions related to health and covert advertising between 2011-2015. According to the decisions, the majority of penalties (69.9%) were issued for internet advertisements. When evaluated annually, the rate of penalties for internet advertisements showed an increase each year.

Erbay and Yalçın (2018) studied the Advertising Board Decisions from 2013-2017, analyzing factors such as advertising medium, reason for penalty, legal basis, penalty type, and monetary fines. They found that internet advertisements received the most penalties. The most common reasons for penalties included advertisements with commercial purposes, those misleading or deceiving consumers, and those creating demand.

In Zengin (2023)'s study examining Instagram stories of influencer medical doctors, it was observed that the most common type of content is product promotion, many posts contained self-promotional or praising content about their services, over half of patient-related posts failed to protect patient privacy, and none of these posts showed evidence of obtaining patient consent.

The findings of the current study is similar to the studies mentioned above. MDs and health institutions were issued sanctions and penalties mostly because they promoted their own health services. However, four MDs received sanctions and penalties for advertising products, these are medical products, cosmetics, and honey. The health institutions analyzed were not public, they were private hospitals, clinics and doctor offices. It can be said that doctors and health institutions have a need to make their voices heard, since the reasons for sanctions and penalties are mostly about commercializing health and exceeding the limits of information sharing: Creating demand for their services (96.7%), making their services seem as commercial (95.6%), and sharing information that goes beyond the permitted boundaries of informing (92.3%) and publicity (74.3%), and being of advertising nature (43.6%). It should also be noted that some posts have the potential to create ethical problems. These are sharing before & after photos of patients (37%), photos during treatment and/or information about medical procedures (26%), deceptive or exploiting information-lacking individuals (17.1%), and information that is not scientifically proven (13.8%). The Advertising Council only probes if there is a complaint. Most of the advertising efforts never get complained, thus never making their way into the press releases.

When it comes to health institutions, it can be seen that in all of the cases, the Commercial Advertising and Unfair Commercial Practices regulation was violated. It is followed by Articles 8, 9, and 39 of Regulation on Medical Deontology (98.7%), the Regulation on Job and Job Descriptions of Healthcare Professionals and Other Professionals Working in Healthcare Services (94.2%), and Article 61 of The Consumer Protection Act No. 6502 (92.4%). It is obvious that doctors who were issued sanctions and penalties were trying to create demand, and in the process, they were turning health into a commercial business.

The most issued sanction was an order to suspend the advertising (99.6%). Administrative penalties (monetary fines) were issued to 5.1% of the cases. Ağırbaş et al. (2011), Santas et al. (2017) and Erbay and Yalçın (2018)'s studies, the penalties showed a high rate of advertisement suspension orders and very few monetary penalties. When MDs and health institutions were compared, it can be seen that penalties were issued to 4.1% of the doctors and 7.6% of the health institutions. It can be said that the ratio of penalties is low in both cases, and their effectiveness is questionable. When these data are compared with the study of Ağırbaş et al. (2011), it is observed that especially the ratio of penalties issued to healthcare institutions (35.5%) has decreased noticeably. In addition, there are no cases that received penalties for covert advertising although MDs openly advertised honey and cosmetics. Advertising of health-related products is prohibited, while other types of products were advertised without any consequences other than suspension of advertising.

Laws and regulations limit what MDs and health institutions can promote. However, they want to use social media, and especially Instagram, to make their services known. It can be argued that strict rules severely limit private hospitals and doctors' offices, who obviously need to spread the word about their services. The rules regarding advertising by doctors are similar to those in European countries, however, it can be said that they are a little more relaxed. It appears social media provides a platform without the lowest possible consequences for this purpose. However, without proper control, this leads to breach of patient privacy, providing misleading, and even scientifically unproven information, use of titles that one does not possess and more. It appears this is just the tip of the iceberg since the council inspects only the cases that get complaints. It is easy for an ordinary user to browse through a highly followed doctor's Instagram feed and find a lot of posts that are clearly violating the rules discussed in this article. Proper control mechanisms are needed especially in social media, since suspension of advertising as a sanction is almost ineffective where stories are already deleted in 24 hours. The increasing use of generative artificial intelligence all over the world might suggest the use of AI for actively scanning thousands of posts produced every day. In this way, violations might be detected just in time. In addition, repeated violations might be detected, and penalties can be determined accordingly. However, it should not be forgotten that such a system will create new discussions on privacy. In addition, human control is absolutely required on the final decision so that such systems do not produce erroneous results. Laws and regulations that are put in place to protect people and their health, but they do so only if they are enforced. As a result, it can be advisable to let doctors say more about their services, while putting more controls in place to prevent them violating these new set of rules. In future studies, researchers may consider gathering the opinions of MDs and healthcare institutions regarding

advertising practices and related restrictions. Such research could provide valuable insights for policymakers.

REFERENCES

- Ağırbaş, İ., Akbulut, Y., & Bayın, G. (2011, October 13-16). *Sağlık sektöründe verilen reklam cezalarının sistematik analizi*. 5. Sağlık ve Hastane İdaresi Kongresi, Muğla, Türkiye.
- American Marketing Association. (n.d.). Retrieved from Advertising: <https://www.ama.org/topics/advertising/>
- ASA (n.d.) *12 Medicines, medical devices, health-related products and beauty products CAP Code*. https://www.asa.org.uk/type/non_broadcast/code_section/12.html
- Çamdereli, M., & Kocabay Şener, N. (2016). Örtülü reklamın örtüsünü aralamak. *Akdeniz Üniversitesi İletişim Fakültesi Dergisi*, 25, 211-224. <https://doi.org/https://doi.org/10.31123/akil.438543>
- Dieners, P., & Kießling, M. (2024, August 07). *Pharmaceutical Advertising Laws and Regulations Germany 2024-2025*. <https://iclg.com/practice-areas/pharmaceutical-advertising-laws-and-regulations/germany>
- Ekiyor, A., & Tengilimoğlu, D. (2014). Sağlıkta reklam serbest olmalı mı? Tüketici görüşleri. *Gazi Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi*, 16(2), 45-71.
- Erbay, E., & Yalçın, G. (2018, October 11-13). Sağlık sektöründe reklam cezalarının içerik analizi ile incelenmesi. 2. Uluslararası 12. Ulusal Sağlık ve Hastane İdaresi Kongresi. Muğla, Türkiye.
- Gençyürek Erdoğan, M. (2019). *E-sağlık okuryazarlığı: Dijital mecralarda sağlık reklamları [PhD dissertation]*. Selçuk Üniversitesi, Konya.
- Güler, E. (2006). *E. sağlık sektöründeki mal ve hizmetler için yapılan reklamların hukuksal boyutunun Türkiye'deki durumu. [Master thesis]*. Marmara Üniversitesi.
- Gürdin, B. (2017). Sağlık hizmetleri sektöründe reklam yasağı: uygulama örnekleri 2017. *Sosyal ve Beşeri Bilimler Dergisi*, 9(2), 17-30.
- Korkmaz, A. (2022). Sosyal medya etkileyicilerinin yaptığı tanıtımların örtülü reklam yasağı bakımından değerlendirilmesi. *TBB Dergisi*, 160, 181-210.
- Moriarty, S., Mitchell, N., & Wells, W. (2012). *Advertising & IMC principles & practice*. Prentice Hall.
- Motur, A. İ., & Tatlı, E. (2021). Özel sağlık hizmetleri sunan kurumlarda reklam yasakları ve hukuki yönden incelenmesi. *Uluslararası Halkla İlişkiler ve Reklam Çalışmaları Dergisi*, 4(2), 101-123.
- Neuman, W. L. (2006). *Toplumsal araştırma yöntemleri nitel ve nicel yaklaşımlar*. Yayın Odası.
- Özdemir, N. (2015). 6502 sayılı yeni TKHK'DA düzenlenen ticari reklamın sağlık alanına yansımaları ile birlikte incelenmesi. *İstanbul Barosu Dergisi*. 2015; 89(6), 149-172.
- Özdemir, S. S. (2018). Sağlık hizmetlerinde reklama yönelik sınırlandırmalar ve hukuki sonuçları. *Türkiye Adalet Akademisi Dergisi*, 34, 253-282.
- Özdil, Ö. (2023). Tüketici hukuku bakımından sosyal medyada örtülü reklam. TOBB Ekonomi ve Teknoloji Üniversitesi.
- Resmi Gazete. (2013, November 28). *Tüketicinin korunması hakkında kanun*. <https://www.resmigazete.gov.tr/eskiler/2013/11/20131128-1.htm>

- Resmi Gazete. (2014, January 16). *Ayakta Teşhis ve Tedavi Yapılan Özel Sağlık Kuruluşları Hakkında Yönetmelik*. <https://www.resmigazete.gov.tr/eskiler/2014/01/20140116-7.htm>
- Resmi Gazete. (2014, May 22). *Sağlık Meslek Mensupları ile Sağlık Hizmetlerinde Çalışan Diğer Meslek Mensuplarının İş ve Görev Tanımlarına Dair Yönetmelik*. <https://www.resmigazete.gov.tr/eskiler/2014/05/20140522-14.htm>
- Resmi Gazete. (2015, January 10). *Ticari reklam ve haksız ticari uygulamalar yönetmeliği*. <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=20435&MevzuatTur=7&MevzuatTertip=5>
- Resmi Gazete. (2022, October 06). *Ağız ve Diş Sağlığı Hizmeti Sunulan Özel Sağlık Kuruluşları Hakkında Yönetmelik*. <https://www.resmigazete.gov.tr/eskiler/2022/10/20221006-1.htm>
- Resmi Gazete. (2025, January 30). *Özel Hastaneler Yönetmeliği*. <https://www.resmigazete.gov.tr/eskiler/2025/01/20250130-9.htm>
- Santas, F., Santas, G., & Ugurluoglu, O. (2017). Advertising bans in the health sector: A case study. *International Journal of Healthcare Management*, 13(sup1), 17-23. <https://doi.org/https://doi.org/10.1080/20479700.2017.1412875>
- Şencan, N., & Uyar, M. (2014). Hasta hakları bağlamında direkt tüketiciye ilaç reklamları üzerine kalitatif bir çalışma. *J Res Pharm*, 18(3), 164-176.
- Şimşek, G. (2014). Kişisel mecralarda reklam yayını: Kişilerin sosyal medyada reklam paylaşım motivasyonları. *Akademik İncelemeler Dergisi*, 8(3), 213-239.
- Tababet ve Şuabatı San'atlarının Tarzı İcrasına Dair Kanun. (1928, April 11). <https://www.mevzuat.gov.tr/mevzuatmetin/1.3.1219.pdf>
- Tıbbi Deontoloji Nizamnamesi. (1960, February 19). <https://www.mevzuat.gov.tr/MevzuatMetin/2.3.412578.pdf>
- Zengin, G. (2023). How influencer doctors use social media? A content analysis on marketing communications, patient privacy and ethics. *Selçuk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 50, 273-286. <https://doi.org/https://doi.org/10.52642/susbed.1227295>

EXTENDED ABSTRACT

Healthcare advertising is strictly regulated in Turkey under various laws and regulations that impose rigid restrictions on promotional activities by healthcare professionals and institutions. Despite these constraints, healthcare providers frequently violate advertising regulations, particularly on social media platforms where enforcement is challenging. This study aims to analyze the decisions made by the Turkish Ministry of Trade's Advertising Board in 2022 regarding healthcare advertising violations. The primary focus is to identify the most commonly violated rules, understand the reasons behind these infractions, and assess the effectiveness of imposed sanctions.

A content analysis methodology was applied to examine the press releases published by the Advertising Board in 2022. The study analyzed a total of 273 complaints related to healthcare advertising violations. These cases were categorized based on the type of advertising, media used, regulatory breaches, and the sanctions applied. The research sought to answer key questions regarding the types of sanctions imposed, the primary reasons for these sanctions, the specific laws and regulations violated,

and differences in penalties between individual healthcare providers and institutions.

The findings indicate that social media platforms, particularly Instagram, are the primary medium for advertising violations (86.4% of cases). The vast majority of violations involved the promotion of healthcare services (98.5%) rather than specific products. The most frequently cited reasons for penalties were attempts to generate demand for services (96.7%), creating a commercial image for healthcare (95.6%), exceeding the legal limits of information-sharing (92.3%), and breaching promotional restrictions (74.3%). Additionally, ethical concerns such as the sharing of before-and-after treatment images (37%) and misleading advertising tactics (17.2%) were identified as common issues.

The most frequently applied sanction was the suspension of advertisements (99.6%), whereas monetary fines were issued in only 5.1% of cases. This finding raises questions regarding the efficacy of existing enforcement measures, as temporary suspensions may not serve as a strong enough deterrent, particularly in the context of social media where content disappears quickly (e.g., Instagram Stories). Moreover, a significant reduction in penalties issued to healthcare institutions (from 35.5% in previous studies to 7.6% in this research) suggests a potential weakening of regulatory oversight.

A comparison between medical doctors (MDs) and healthcare institutions reveals that MDs received more penalties (71.1%) than institutions (28.9%). While both groups violated advertising regulations at similar rates, MDs were more likely to engage in direct service promotions, whereas institutions faced penalties for broader commercial strategies. Violations of the *Commercial Advertising and Unfair Commercial Practices Regulation* (99.6%), *Article 61 of the Consumer Protection Act No. 6502* (97.8%), and the *Regulation on Medical Deontology* (97.4%) were the most frequently cited regulatory breaches.

These findings align with previous research indicating persistent violations in healthcare advertising and regulatory inefficiencies in enforcement. Social media has become a dominant platform for healthcare providers to promote their services, often in violation of legal boundaries. However, the heavy reliance on suspension orders rather than financial penalties diminishes the deterrent effect of sanctions, suggesting a need for stronger enforcement mechanisms. Advertising suspension as a sanction is almost ineffective for stories that are automatically deleted after 24 hours. It can be suggested that doctors should be allowed to share more information about their services while implementing stricter control mechanisms to prevent violations of new rules. Laws and regulations established to protect people and their health can only achieve this purpose when effectively enforced.

