

4734-9-02

Advertising and solicitation.

- (A) Advertising and solicitation is any communication with the intent, either directly or indirectly, to obtain professional employment, or offering or selling professional services, or offering to perform professional services, or inducing individuals to enter into any obligation relating to professional services or care or goods related thereto.
- (B) Any trade or fictitious name utilized in connection with the practice of chiropractic and/ or acupuncture must be duly registered with the Ohio secretary of state.
- (C) No chiropractic physician shall disseminate, or cause to be disseminated, or pay or give money or anything of value to another to disseminate, any advertisement or solicitation that is false, fraudulent, deceptive, or misleading, or knowingly have a professional connection with any person that advertises or solicits for patients in such a manner.
- (D) Every advertisement and solicitation must clearly and conspicuously reveal that it is on behalf of a chiropractic physician.
- (E) Every advertisement and solicitation must include the first and last name of a designated chiropractic physician who holds a valid Ohio chiropractic license, who has reviewed and approved the content of the advertisement or solicitation.
- (F) Every advertisement and solicitation must clearly and conspicuously include one of these exact terms: chiropractic, chiropractor, doctor of chiropractic or chiropractic physician.
- (G) No chiropractic physician who holds a certificate to practice acupuncture issued under Chapter 4734. of the Revised Code may advertise or represent to the public that he or she is engaged in the practice of oriental medicine or utilize any of the titles in section 4762.08 of the Revised Code.
- (H) Every advertisement and solicitation that claims specific physical illnesses, ailments, conditions, or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession.
- (I) No chiropractic physician, with the intent to obtain professional employment, shall directly contact in person, by telephone, or by electronic means any party to a motor vehicle accident, any victim of a crime, or any witness to a motor vehicle accident or crime, until thirty days after the date of the motor vehicle accident or crime. Any communication to obtain professional employment shall be sent via the United States postal service.

(J) No chiropractic physician shall pay or give, or offer to pay or give, money or anything of value to solicit employment on behalf of another to contact in person, by telephone, or by electronic means any party to a motor vehicle accident, any victim of a crime, or any witness to a motor vehicle accident or crime until thirty days after the date of the motor vehicle accident or crime. Any communication to obtain professional employment shall be sent via the United States postal service.

(K) No chiropractic physician shall advertise that he or she will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay, unless the waiver is made:

(1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request; or,

(2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

(L) Chiropractic physicians who solicit via any telecommunication method or device, including but not limited to, live telephone calls, voicemail messages, and text messages, must maintain a record of each individual contacted and their telephone number. A copy of each exact solicitation script must be maintained for six months from the date of contact. Blocking, concealing, or disguising the origin of the solicitation is prohibited. The following must be disclosed within the first sixty seconds of the contact:

(1) the solicitor's identity;

(2) the name of the chiropractic physician on whose behalf the solicitation is being made;

(3) the practice name;

(4) the practice telephone number;

(5) how the individual's contact information was acquired;

(6) the purpose of the solicitation; and

(7) a statement of the goods or services being offered.

- (M) Chiropractic physicians who solicit via any written medium, including but not limited to, the US mail, facsimile, and electronic mail, must maintain an exact copy of each written solicitation and a record of the name and address, or electronic mail address or facsimile number where the solicitation was sent for six months from the date sent. The solicitation must clearly and conspicuously state “advertising material” or “advertisement only” in the subject line of the facsimile or electronic mail or on the outside of the envelope of solicitations sent via the United States postal service.
- (N) Chiropractic physicians who solicit in-person must maintain a record of each individual contacted and their address and telephone number. An exact copy of any documents or materials provided must be maintained for six months from the date of contact.
- (O) Excluding a free consultation, any advertisement or solicitation that offers free or discounted goods or services must include a disclaimer. The disclaimer must clearly state specifically what goods or services are discounted or free and what goods or services are not included with the free or discounted services offered. If the advertisement is visual, the disclaimer must be contained therein. If the advertisement is aural, the disclaimer must be read. A copy of the disclaimer must be provided to each patient who responds to an offer prior to the rendering of care and a copy must be maintained in the patient's file. Additional goods or services that are subject to a charge that are rendered on the same date as free or discounted goods or services are offered must not be rendered until such charges are disclosed in writing and acknowledged by signature of the patient. A copy of such signed disclosure must be provided to the patient prior to rendering care and a copy must be maintained in the patient's file.
- (P) A licensee may utilize testimonials if the patient giving the testimonial has given written consent as to the exact wording and proposed use of the testimonial. A copy of such consent and testimonial must be retained by the chiropractic physician who holds a valid Ohio license for one year from the last date of publication.
- (Q) No chiropractic physician shall:
- (1) misrepresent an affiliation with, or endorsement by, any government or third-party organization;
 - (2) interfere with an existing doctor-patient relationship;
 - (3) contact an individual repeatedly or continuously, or after being advised that there is no interest in receiving chiropractic and/or acupuncture services;
 - (4) contact an individual when that person has previously stated that he or she does not wish to receive an outbound telephone call or in person solicitation;

- (5) contact an individual at any time other than between eight a.m. and nine p.m. local time;
- (6) require an immediate response from an individual to any offer made during a solicitation or make a one-time only offer and/or not permit the individual to consider the offer and reply at a later time;
- (7) contact a minor child under eighteen years of age;
- (8) offer cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee, or as an inducement to enter into or continue care;
- (9) offer a promotional item that violates paragraph (I) of rule 4734-9-07 of the Administrative Code;
- (10) use of threats, intimidation, profane, or obscene language in any advertisement or solicitation.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	null
Rule Amplifies:	null