

TO BE RESCINDED

4734-9-02

**Advertising and solicitation.**

- (A) This rule applies to all forms of chiropractic and acupuncture advertising and solicitation. All advertisements and solicitations shall comply with the provisions of this rule.
- (B) Advertising and solicitation means any communication disseminated by any means with the intent, either directly or indirectly, of 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. Advertising includes business cards.
- (C) No chiropractic physician shall disseminate or cause to be disseminated any advertisement or solicitation that is in any way false, fraudulent, deceptive, or misleading.
- (D) Excluding a free consultation, any advertisement or solicitation which offers free or discounted goods or services shall include a disclaimer. The disclaimer shall 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 shall be contained therein. If the advertisement is aural, the disclaimer shall be read. A copy of the disclaimer shall be provided to each patient who responds to an offer prior to the rendering of care and a copy shall 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 shall not be rendered until such charges are disclosed in writing and acknowledged by signature of the patient. A copy of such signed disclosure shall be provided to the patient prior to rendering care and a copy shall be maintained in the patient's file.
- (E) All advertisements and solicitations shall include therein 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) All advertisements and solicitations shall clearly reveal that the advertisement and/or solicitation is being made on behalf of a chiropractic physician(s).

- (G) All advertisements and solicitations shall contain therein one of these exact terms: chiropractic, chiropractor, doctor of chiropractic or chiropractic physician and in at least ten point font or its equivalent if the advertisement or solicitation is visual.
- (H) 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.
- (I) Any trade or fictitious names utilized in connection with the practice of chiropractic and/or acupuncture shall be duly registered with the Ohio secretary of state.
- (J) 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.
- (K) All advertisements and solicitations that claim 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.
- (L) Chiropractic physicians who solicit via any telecommunication method or device shall maintain a record of the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use. Failure to maintain the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use constitutes a violation of this rule.
- (M) Chiropractic physicians who solicit via any written medium, including but not limited to via the US mail, facsimile, or electronic mail, shall maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent, for six months from the last date of use. Failure to maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent for six

months from the date of last use constitutes a violation of this rule. When the name and information are acquired from public documents, the written solicitation shall clearly state in at least ten point font or its equivalent "This is an advertisement. Your name and information were acquired from public documents. You are under no obligation to respond to this communication."

- (N) Chiropractic physicians who solicit via in-person shall maintain a record of the names of the individuals contacted, including their address and telephone number, and copies of any documents or materials provided to the individual for a period of six months. Failure to maintain a record of the names of the individuals contacted, including their address and telephone number and copies of any documents or materials provided to the individual for a period of six months constitutes a violation of this rule.
- (O) Each of the following constitutes an act of abusive solicitation and is in violation of this rule:
- (1) Use of threats, intimidation, or profane or obscene language;
  - (2) Contacting an individual repeatedly or continuously, or after being advised that there is no interest in receiving chiropractic and/or acupuncture services;
  - (3) Contacting 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 made by or on behalf of the seller whose goods or services are being offered. Every chiropractic physician who solicits via telephone is to maintain a "do not call" list;
  - (4) Contacting an individual at any time other than between eight a.m. and nine p.m. local time;
  - (5) Requiring an immediate response from an individual to any offer made during the solicitation or making a one time only offer and/or not permitting the individual to consider the offer and reply at a later time;
  - (6) Failure to disclose within the first sixty seconds of the solicitation, the solicitor's identity and the identity and practice name of the chiropractic physician on whose behalf the solicitation is being made; the purpose of the solicitation; and a statement of the goods or services being offered;
  - (7) Failure to provide the practice telephone number of the chiropractic physician on whose behalf the solicitation is being made;
  - (8) Misrepresenting an affiliation with, or endorsement by, any government or third-party organization;

- (9) Communicating with an individual in a way that invades privacy of the individual, or interferes with an existing doctor/patient relationship;
  - (10) Leaving a recorded message for the prospect that does not comply with this rule;
  - (11) Failing to advise the prospect how his or her name and information were acquired and that the prospect is under no obligation to respond to the offer made during the solicitation;
  - (12) Contacting a minor child under eighteen years of age;
  - (13) Offering 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 to continue care or offering a promotional item that violates paragraph (I) of rule 4734-9-07 of the Administrative Code.
  - (14) Blocking or otherwise concealing or disguising the true identification of the origin of the solicitation.
- (P) Chiropractic physicians are responsible for the solicitations made by others on his or her behalf.
- (Q) 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 shall be retained by the chiropractic physician who holds a valid Ohio license for one year from the last date of publication. Testimonials shall be true and shall not be false, fraudulent, deceptive or misleading.

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

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