

**CHECKLIST FOR ADVERTISING
MEDICAL SERVICES**

**Prepared By Erin Smith Aebel, Esq.
Shumaker, Loop & Kendrick, LLP**

1. **APPLICABILITY:** Advertising includes any statements oral or written, documented before the public with the intent of furthering the purpose of selling professional services, offering to perform professional services, or including members of the public to enter into any obligation relating to such services. This includes your website, brochures, billboards, and other advertising.

2. **GENERAL:** Is the information presented 100% true and accurate?
 - a. Avoid any statement that could be construed as deceptive or misleading.
 - b. Avoid any statement that make only a partial disclosure of relevant facts.
 - c. Do not create any false or unjustified expectations of beneficial assistance.

3. **REPRESENTATIONS REGARDING PHYSICIANS:**
 - a. Do not provide any information that conveys the impression that the physician disseminating the advertising possesses qualifications, skills, or other attributes, which are superior to other physicians, other than a simple listing of earned professional post-doctoral or other professional achievements recognized by the Board of Medicine.
 - b. Board certification by an American Board of Medical Specialties (“ABM”) specialty board is a professional achievement recognized by the Board of Medicine.
 - c. The Board of Medicine also approves American Board of Facial Plastic and Reconstructive Surgery, Inc., board certification by the American Board of Pain Medicine, and American Association of Physician Specialists, Inc. (“Other Accepted Boards”).
 - d. A physician cannot advertise that the physician is “board certified” or a “specialist” unless the physician is a member of an ABMS board or other Accepted Board.
 - e. If a physician states that she is board certified she must also state the exact name of the specialty board that awarded specialty certification in the advertising. Again, it must be one of the approved boards discussed in Sections 3.b. and 3.c. above.
 - f. A physician cannot imply specialty or sub-specialty recognition for which the physician has not received specialty recognition.
 - g. The physician’s advertising may indicate the services offered and may state that his or her practice is limited to one or more types of services if this accurately reflects the scope of practice of the physician.

- h. The physician's name and M.D. or D.O. as applicable, must appear in any advertising for medical services.

4. **FEES:**

- a. The advertising cannot convey the impression that the professional services can or will be performed for a stated fee when this is not the case, or make representations with respect to fees for professional services that do not disclose all the variables affecting the fees that will in fact be charged.
- b. You cannot offer free or discounted medical services without the following disclosure in all capital letters clearly distinguishable from the rest of the text:
THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION OR TREATMENT.

5. **ADVERTISEMENT RELATED TO WEIGHT LOSS:**

Avoid any advertisement that:

- a. promises specific results;
- b. creates unreasonable expectations;
- c. claims rapid, dramatic, incredible, or safe weight loss;
- d. states or suggests that diet or exercise are not required; or
- e. suggests that weight loss is effortless or magical.

6. **USE OF PATIENT INFORMATION FOR MARKETING PURPOSES:** You cannot contact a patient for marketing purposes using information provided to you in their patient records without an express written authorization to do so. Therefore, make a written authorization part of your patient intake records and create a separate marketing base of patients who executed the authorization.

7. **PATIENT BROKERING:** It is illegal to offer or pay, or to solicit or receive, any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement to induce the referral of patients or patronage to or from a health care practitioner or health care facility.