

The Ethics of Advertising

How to Market Your Practice Legally and Effectively

In Print, Social Media or Broadcast

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With the many options for advertising available now, it can be terrifying to try to make a decision about where and how to invest your probably limited funds. There are many opinions about which platform is best, but some common rules of ethical advertising will apply to all your options. Following are some key points about ethical and lawful acupuncture advertising, and a set of statutes that cover “pay per patient” advertising such as Groupon and Living Social.

- Don't represent yourself as something you're not, especially not as a doctor or physician, unless you are legally an M.D. in Texas. OMD's or Acupuncture Physicians from other states or countries must list that state affiliation along with their title.
- Don't call yourself a specialist, unless you are. If you market yourself as a specialist, you must include the title of the specialty you carry and the Board that awarded it to you. OMD's or Acupuncture Physicians from other states must list that state affiliation as well as associated license numbers.

- On all print advertising except business cards, your license number must appear. It's generally a good idea to use this on internet and social media as well. A correct advertisement will list you in this format :

John Doe, Tx.Lac. #000000

You can also add NCCAOM and other credentials, as long as the license number is clear and easy to read.

- Be careful about making promises in advertising or verbally to patients. Marketing yourself and acupuncture as the "best" way to treat and cure something (even if we think it is) is against Board advertising rules. Phrases such as "has been proven to be effective in the treatment of" and other such references to treatment outcomes should be referenced, usually the World Health Organization or National Institute of health are good place to start for reference material.
- Offering discounts, reduced rates or "Happy Hour" type specials are fine, but those rates must be available to all patients in your practice, even existing ones, so be careful how you discount lest all your patients end up on the deep discount rate.
- Referrals are marvelous ways to get patients, probably the best way, and should be encouraged, but CAUTION: You cannot give anyone anything of value to directly send you a patient! This violates several Board rules and statutes, amongst them the Paid Referral and Drumming Statutes that follow this presentation. Hence: no "send three patients, get a free treatment" plans, no discounts for referrals, no paying someone to send you a patient directly. A heartfelt "thank you" will usually be enough to thank a patient for a referral.

Unfortunately, these statutes cover Groupon, Living Social and other "pay per customer" schemes where you don't pay until someone buys your

coupon, and then both you and the coupon company get paid for the customer that just bought. This makes both you and the company who sold you the coupon liable, as both of you violated the Statute. Most of these advertising companies are aware that this kind of advertising is illegal for licensed medical professionals, but they will sell it to you anyway, expecting you to know better. (When I contacted Groupon about it, they acknowledged there were legal issues with selling to acupuncturists, and told me I should “reach out” to my peers and let them know it wasn’t legal.) Advertising companies that charge a flat fee for their service, like a newspaper, mailout company or magazine are fine – you pay them whether you get anyone from the ads or not, and you’re paying to reach a group.

Important things to remember are to be truthful, transparent and understandable in your ads. As for which media is best – time will tell on that question. Identify your target market, then research the best ways to meet that market – is it social media? Professional groups? Direct mail? – Then follow the statutes to insure that you don’t end up paying a hefty fine, or worse.

Study the following page; these statues were provided by the General Counsel to the Texas State Board of Medical Examiners. The Acupuncture Board is under the jurisdiction of the BME, but often doesn’t know all the rules and statues that apply to Acupuncturists. Like most State offices, they run on limited staff and budget. The General Counsel suggested we all study these rules as part of our educational process.