

## **201 KAR 9:018. Physician advertising.**

RELATES TO: KRS 311.597(2), 311.990

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation delineates limits of permissible professional advertising with the aim of adequately informing the public about physician services while at the same time establishing safeguards to protect the public or any member thereof from false, fraudulent, misleading, deceptive, self-laudatory or unfair statements.

Section 1. Advertising may be by any medium provided that the advertisement shall not be fraudulent, misleading or deceptive.

Section 2. The following may not be advertised:

- (1) Testimonials of patients as to the physician's skill or the quality of his or her professional services;
- (2) Claims regarding the physician's experience, competency and quality of services which imply that he or she possesses an exclusive and unique skill or remedy;
- (3) Claims which cannot be readily verified by objective standards; and,
- (4) Any representation expressly prohibited under KRS 311.597(2).

Section 3. (1) An advertisement may be sent to an individual addressee only if that addressee is one of a class of persons, other than a family to whom it is sent at the same time.

(2) An advertisement may not be sent to an addressee if prompted or precipitated by a specific event or occurrence involving or relating to the addressee as distinct from the general public.

Section 4. (1) A licensee may only advertise that the licensee is "board certified" if the certifying board advertised by the licensee is:

- (a) A member of the American Board of Medical Specialties (ABMS);
- (b) A member of the Bureau of Osteopathic Specialties and Board of Certification; or
- (c) A board that has been determined, by a subcommittee of the Board of Medical Licensure comprised of members appointed by the president to require:
  1. Identifiable training in the relevant specialty or subspecialty field within a program accredited by the Accreditation Council for Graduate Medical Education or its equivalent; and
  2. Satisfactory completion of a comprehensive psychometrically-validated examination in the specialty or subspecialty field.

(2)(a) In making its determination, the subcommittee may rely on factual findings by the licensing authority of another state that the certifying board under consideration meets those requirements.

(b) Before making its determination, the subcommittee shall publish notice of the request in the board's newsletter, which shall contain the following information:

1. The name and address of the board making the request;
2. A brief summary of the training and testing qualifications supplied by the requesting board in support of its request;
3. The name of any state licensing authority that has previously approved alternate certification for the requesting board; and
4. Notice that physicians licensed by this board shall have sixty (60) days from a stated date in which to file written comments for consideration by the subcommittee.

(3) The subcommittee shall consider any written comments received pursuant to this notice before making its determination.

Section 5. Violation of any provision of this administrative regulation shall be considered dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or a member thereof pursuant to KRS 311.595(8) and 311.597(2). (11 Ky.R. 1097; Am. 1256; eff. 2-12-85; 31 Ky.R. 1532; 1981; 32 Ky.R. 254; eff. 8-22-2005.)