

201 KAR 21:065. Professional advertising; seventy-two (72) hour right of rescission.

RELATES TO: KRS 312.019(9)(g), 312.021, 312.991

STATUTORY AUTHORITY: KRS 312.019(9), 312.021(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.021(1) prohibits advertising that is false, deceptive, or misleading. KRS 312.019(9)(g) authorizes the board to promulgate administrative regulations to regulate forms of advertising and authorizes the board to establish a seventy-two (72) hour rescission period for a consumer responding to certain forms of solicitation or advertising. This administrative regulation establishes limits of permissible professional advertising to safeguard the public from false or misleading statements and nuisance type advertising. This administrative regulation also defines the forms of solicitation or advertising wherein the responding consumer shall be granted a seventy-two (72) hour rescission period.

Section 1. A licensee may advertise chiropractic services through any medium if the advertisement is not false, deceptive, or misleading. (1) An advertisement shall include:

- (a) Business name and address;
 - (b) Chiropractor's name;
 - (c) Telephone number;
 - (d) Expiration date of the advertisement, if any; and
 - (e) Words or letters designating the particular doctor degree held by the chiropractor. "D.C." shall designate a doctor of chiropractic.
- (2) Deviation from these requirements shall first be approved by the board.
- (3) An advertisement offering a free or discounted service shall include complete a notice of the right of rescission, which notice shall not be smaller than ten (10) point font.

Section 2. Consumer Rights, Notice. (1) A chiropractor advertising free or discounted services shall in any advertisement or solicitation provide the consumer with notice of the seventy-two (72) hour right of rescission.

(2)(a) Within ten (10) days of a notice of rescission, the chiropractor shall tender to the consumer any payment made by the consumer prior to the rescission for an unadvertised service performed.

(b) If payment had not yet been made by the consumer for an unadvertised service, the consumer's account shall not be billed for that service.

(3)(a) In order to be effective, the notice of rescission shall be given by the consumer to the chiropractor within seventy-two (72) hours of the completion of the advertised free or discounted service or agreement to submit to a series or course of treatments.

(b) The notice shall be:

1. In writing; and
2. Express the intention of the consumer to rescind his or her obligation.

(c) If notice of rescission is given by mail, it shall be effective if it:

1. Is properly addressed;
2. Has sufficient postage affixed; and
3. Is postmarked.

Section 3. (1) A written advertisement may be sent or delivered to an individual addressee only if:

(a) That addressee is one (1) of a class of persons, other than a family, to whom it is also sent or delivered at or about the same time; and

(b) It is not prompted or precipitated by a specific event or occurrence involving or relating to

the addressee or addressees as distinct from the general public.

(2) A licensee who advertises a fee for routine services and accepts the employment shall perform the services for the amount advertised, and a statement to that effect shall be included in every advertisement in which a fee is listed.

Section 4. If a complaint is filed with the board regarding an advertisement of a licensee, the board shall request, and the licensee shall furnish, a copy of the advertisement.

Section 5. Advertisement of Designation of Chiropractic Certifications.

(1) Advertisement of chiropractic specialties as established in 201 KAR 21:045 shall include the word "chiropractic" with any specialty designation and conform to the standards established in this administrative regulation.

(2) Any designation or certification not recognized by the board may only be advertised if:

(a) The designation or certification is not abbreviated, but is written out;

(b) The certifying or conferring college, university, or organization is named; and

(c) Proof of attainment of the advertised designation or certification is on file at the board of-fice.

Section 6. A licensee shall post his or her name on the premises where a service is being offered and the posted name shall be clearly visible to the public at the entrance to the premises and on any sign visible outside of the premises that offers the delivery of chiropractic services. (6 Ky.R. 168; eff. 10-3-1979; Am. 16 Ky.R. 1618; eff. 4-12-1990; 34 Ky.R. 621; 1391; eff. 12-17-2007; 40 Ky.R. 1415; 2122; eff. 3-20-2014.)