

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) requires that advertising shall not be 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 establishes the forms of solicitation or advertising in which 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) If the business name used in the advertisement has the word "chiropractic" in it, then additional information shall not be required; or

(b) If the word "chiropractic" is not included in the name of the business, then the advertisement shall contain the name of at least one (1) doctor in the office and clearly identify them as a doctor of chiropractic, or clearly state in some manner that the office is a chiropractic office. 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.

Section 2. Consumer Rights, Notice. (1)(a) The board may choose, in accordance with this administrative regulation, to require a licensee to place a consumer notice of a seventy-two (72) hour right of rescission on any advertisement offering a free or discounted service.

(b) A chiropractor advertising free or discounted services shall in any advertisement or solicitation provide the consumer with notice, in print of no less than ten (10) point font, of the seventy-two (72) hour right of rescission. The notice shall include information on the form and manner in which the patient shall exercise the 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 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 submit, a copy of the advertisement, including audio or video if the advertisement is in audio or video medium.

Section 5. A licensee shall post his or her name on the premises where a chiropractic service is being offered, and the name(s) of all associate licensees who practice chiropractic on the premises. The posted names shall be clearly visible to the public at the entrance to the premises, or on a 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; 47 Ky.R. 876; eff. 2-4-2021.)