



Ohio Administrative Code Rule 4729:11-3-05 Advertising and solicitation.

Effective: December 15, 2019

(A) No HME services provider shall advertise or solicit for patronage in connection with the licensee or registrant's business if any communication contained therein is false, fraudulent, deceptive, or misleading.

(B) Excluding a free consultation, any advertisement or solicitation which offers HME services on a gratuitous basis shall include a disclaimer. If the advertisement is visual, the disclaimer shall be contained therein. If the advertisement is audio-based, the disclaimer shall be read. A written copy of the disclaimer shall be provided to every patient who responds to an offer, prior to the rendering of patient care.

(1) The disclaimer shall clearly and conspicuously state the following:

(a) Any exclusions, prohibitions, restrictions, limitations, conditions, or eligibility requirements which apply to the offer; and

(b) Any additional services, which are associated with the offer, that are rendered on the same day but are not provided free of charge.

(C) All advertisements and solicitations shall include therein the name of the licensee or registration holder pursuant to Chapter 4752. of the Revised Code who has reviewed and approved the content of the advertisement or solicitation.

(D) Any trade or fictitious names utilized in connection with HME services or sales shall be duly registered with the Ohio secretary of state.

(E) Each of the following shall constitute an abusive telemarketing act and shall be considered a violation of this rule:



- (1) Use of threats, intimidation, or profane or obscene language.
 - (2) Calling a person repeatedly or continuously with intent to annoy, abuse or harass any person at the number called.
 - (3) Calling a person when that person has previously stated that they do not wish to receive an outbound telephone call made by or on behalf of the seller whose goods or services are being offered or a person who is listed on federal government's national do not call registry. Every seller of goods or services shall maintain a "do not call" list.
 - (4) Calling a person's residence at any time other than between eight a.m. and eight p.m. local time at the persons location.
 - (5) Requiring an immediate response from the prospect to any offer made during the solicitation.
 - (6) Failure to disclose within the first sixty seconds of the telephone call the solicitors identity and the practice on whose behalf the solicitation is being made; the purpose of the telephone call; a statement of the goods or services being sold; and that no purchase or payment is necessary to participate in a promotion if a promotion is offered.
 - (7) The solicitors are prohibited from misrepresenting their affiliation with, or endorsement by, any government or third-party organization.
 - (8) Communicating with prospective patients in a way that invades privacy of the prospect, or interferes with an existing prescriber/patient relationship.
- (F) A licensee or registrant may utilize testimonials in advertising if the patient giving the testimonial has given written consent as to the exact wording and proposed use of the testimonial. A copy of such consent and testimonial shall be retained by the HME service provider for two years from the last date of publication. Testimonials shall be true and shall not be false, fraudulent, deceptive or misleading.
- (G) A HME services provider may not utilize signs which include any false, fraudulent, deceptive or



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misleading information.