

Advertising “Doctor/Dr.”

written by Richard Leslie | May 24, 2016

Avoiding Liability Bulletin - April 2010

As I have previously written, probably on more than one occasion, the general rule on advertising by licensed health professionals is that advertising is permissible so long as it is not false, fraudulent, misleading or deceptive. Some or all of these four words describing unlawful advertising by health professionals may be defined in state law or regulation. Each state may treat this subject somewhat differently, so reference to the particular state’s law may be necessary. With respect to the word “doctor” or the letters or prefix “Dr.,” state law (the Medical Practice Act) in California makes it a crime (misdemeanor) for any person to advertise by using the word “doctor” or the letters or prefix “Dr.” when referring to himself or herself in advertising (e.g., on the Internet, a business card, sign) unless the person is licensed as a physician and surgeon.

Some therapists or counselors that have a PhD or other related doctoral degree that qualifies them for licensure refer to themselves as a doctor (or as Dr.) without using the PhD after their name. Some do this by mistake, while others do it intentionally. I have seen practitioners refer to themselves by a title that doesn’t exist as a state-issued license (e.g., “licensed psychotherapist”) and neglect to put the related PhD after his/her name while in the same ad referring to him/herself as a doctor. In both of these situations, these practitioners typically do not disclose the title of their actual licenses. Such advertisements are problematic at best. Depending upon state law or regulation, such advertisements may constitute unprofessional conduct and/or may subject the practitioner to criminal charges.

In any criminal prosecution or licensing board disciplinary action involving wrongful advertising by a licensed health professional, the entire advertisement is relevant. The courts and licensing boards will typically look at the “four corners of the advertisement.” Even if the law is not violated by a particular advertisement, proper ethical behavior and transparency would seem to dictate that the consumer is entitled to know the exact kind of license that is held by the practitioner. Why would a licensee not disclose his or her actual licensure? Why would a licensee be so desirous of being referred to as a “doctor” or as “Dr?” The answer, it might be alleged, is the licensee wants to mislead the consumer into believing that he/she has a greater or different license than he/she actually possesses.