Pre-licensed Persons

written by Richard Leslie | May 24, 2016

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… It must always be remembered that advertising must be truthful and not false, misleading, or deceptive. This of course applies to licensees and to persons who are not yet licensed – such as interns, trainees, or similarly titled pre-licensed persons. While state law or regulation may limit or place certain conditions upon advertising, the general rule is that any person may advertise his or her services unless such action is prohibited. Usually, the owner of a business will have ultimate authority over advertising that involves his or her business. In the case of a nonprofit corporation, the person in charge will usually control the advertising that takes place. In those jurisdictions where pre-licensed persons are not prohibited from advertising, care must be taken to avoid using misleading or deceptive information, sometimes accomplished by the failure to make certain disclosures.

My view of advertising by pre-licensed persons is that the employer of the person must be in control and must ensure that the advertising is appropriate. It should be clear from the "four corners of the advertisement" that the person is not licensed and works under the supervision of a licensed person. The name of the employer should be included in the advertisement so that the patient or client understands who owns the business and to whom payments should be made. These seem like simple and straightforward principles that employers and pre-licensed persons alike would be in accord with in order to be clear with the consumer/prospective client.

I have occasionally found, however, that there are some who, for one reason or another, are uncomfortable with or unwilling to make such basic disclosures. I have seen many advertisements that give the impression, either by the words used or by the non-use of certain words, that the pre-licensed person is a licensed private practitioner. Depending upon the state and its enforcement mechanism (and budget), such advertising may not be of a high priority to those charged with protecting the public, even when they become aware of the questionable advertising. If there is a dispute between the pre-licensed person and the person being treated, however, and if an attorney becomes involved for the aggrieved client, the advertising may redound to the detriment of the pre-licensed person – and quite likely, the employer who allowed the advertising to take place.