

Testimonials and Direct Solicitation of Clients

The College of Dietitians of Ontario discourages the use of personal client testimonials in advertising dietetic services and the direct solicitation of clients for business. In the previous résumé (Spring 2010, p. 6), we published a list of best-practices for advertising and contacting clients to solicit business. The scenarios below illustrate some fundamental ethical and professional principles that are at the core of those best-practices. In each of the scenarios, test your knowledge of professional ethics and jurisprudence by identifying the applicable principles and laws from the list on the right (answers p. 14).

1. **A dietitian publishes a monthly newsletter which includes nutrition tips and advertises upcoming seminars, offered for a fee, which may interest her clients. She sends a copy of this newsletter to all her clients by email and by mail to those who don't have email.**

On the surface, this practice appears acceptable. The practice that is discouraged by the College is the direct solicitation of clients which is sending personalized communications to a client or potential client to solicit an appointment or other business from them. In this scenario, the client is not being directly solicited because the newsletter is being sent to all clients in general. However, laws which protect the personal health information of clients do apply. The *Personal Health Information Protection Act*, 2004, Part IV, states,

"33. A health information custodian shall not collect, use or disclose personal health information about an individual for the purpose of marketing anything or for the purpose of market research unless the individual expressly consents and the custodian collects, uses or discloses the information, as the case may be, subject to the prescribed requirements and restrictions, if any."

The law is clear that when a health information custodian

Principles & Laws Applicable to Profession Advertising and Solicitation of Clients

Know the Law

- a) Obtain client consent for sharing or using personal information.
- b) Identify clearly to clients why and how their personal information will be used.
- c) Protect the privacy of client personal health information.
- d) Make accurate and non-deceptive claims.

Act in the Public Interest

- e) Give verifiable and accurate information that will help the public make informed decisions about the dietetic services they need.

Maintain Integrity and Honesty

- f) Avoid any situation that may be perceived or interpreted as a conflict of interest.
- g) Avoid engaging in conduct or performing an act that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonorable or unprofessional.
- h) Foster confidence in your professional services.

Respect Clients

- i) Respect professional/client boundaries.
- j) Reduce the possibility of misunderstandings which could potentially damage the professional/client relationship.

(the RD in a private practice, the employers or designated persons in organizations) collects personal health information, the purpose for collecting the information must be explained to the client. Also, client consent must be obtained when the purpose for collecting the information changes. In this scenario, an RD could not send the newsletter without first obtaining explicit permission from her clients that they wish to receive it.

If the RD was sending the newsletter to everyone in her

neighborhood, then this practice would be acceptable as long as her client list was not being used as part of the mailing list. Except for the clients who have consented to receive the newsletter, the mailing list for the newsletter would have to be obtained from another source.

Circle the professional principles that apply when sending information to clients.

- a. b. c. d. e.
f. g. h. i. j.

2. I work in a private practice and a new client wants to talk to existing clients for references. May I give this client the references requested?

As long as the existing clients have given their consent to be contacted as a reference, giving a client references is an acceptable practice. Some have suggested that a reference is like a testimonial, but there are significant differences. With a reference, a potential client can ask questions and probe to verify the quality and types of services that were received from the RD. There is a dialogue and a sharing of information. In an advertising testimonial, a potential client cannot directly verify the advertised claims and the information is taken out of context. A two-way conversation is not possible with advertising testimonials.

When asking clients to be a reference, consider that the professional/client relationship is privileged and sensitive. Some clients may feel uncomfortable with granting or saying no to a referral. Just asking may create tension in your relationship with some clients. Be aware that there is also potential for client exhaustion if they are being contacted too often to give a referral.

Circle the professional and ethical principles you would consider when asking a client to be a reference.

- a. b. c. d. e.
f. g. h. i. j.

3. James, a client, who has used the services of an RD has lost 20kg. He publically praises and recommends the services of the RD in his personal

blog and has also posted a link on his blog to the RDs website.

An RD has no control over unsolicited testimonials a client posts on their personal blog. Clients are free to speak about their own experiences in a blog. They are also free to post links to an RDs website on their blog.

However, it would not be advisable for the RD to post this unsolicited testimonial on her own website as the information would be out of context. It would also not be recommended to ask the client if the RD can post a link to the client's blog on her own website. Posting the testimonial or posting a link to the client's blog amounts to using a client testimonial; this practice is discouraged by the College.

It would also be a serious breach of ethical and professional boundaries if the RD asked a client, paid a client or offered free services for a client to post a testimonial of her services on the client's blog. These actions could be interpreted as professional misconduct.

Circle the professional and ethical principles which apply regarding posting client testimonials online.

- a. b. c. d. e.
f. g. h. i. j.

4. An RD owns a company where several RDs work for her. The RD has a website where she advertises the services of the company and each RD is featured along with the specialty services they offer. One dietitian treats clients who are obese. In her feature, she states, "On average, my clients lose 45lbs in the first six months of their treatment."

RDs are responsible for making accurate and non-deceptive claims and should be prepared to substantiate them. The *Better Business Code of Advertising* makes clear that deception is not only a result of stated facts but omitted details as well, "An advertisement as a whole may be misleading although every sentence separately considered is literally true. Misrepresentation may result not only from direct statements but by omitting or obscuring a material fact."

(<http://london.bbb.org/bbb-code-of-advertising/>).

In this case, the RD is making a general claim about the results of the dietetic treatments for obesity her clients have experienced. This may be acceptable as long as the claim is accurate, verifiable and that a complete picture is presented. For example, the RD would have checked client charts over a significant period of time and verified that these were the average results for her clients. To support the claim, she would be prepared to show her prospective clients an aggregate graph of client results over a period of time. To present the whole picture, she would mention that not all clients experienced the same results.

Circle the professional and ethical principles that apply when making claims in advertising.

- a. b. c. d. e.
f. g. h. i. j.

5. An RD has a business analyzing nutrition information in restaurant menu items. On her website, she lists her clients, with a link to their company website.

Listing companies which are clients on your website is an acceptable practice because the clients are not individuals. The practice that is discouraged by the College is using testimonials from individual clients for advertising RD services. The companies listed here have used the services of the RD and, presumably, have consented to being listed on the RDs website with the expectation that they may be contacted.

Circle the professional and ethical principles make this practice acceptable.

- a. b. c. d. e.
f. g. h. i. j.

Answers on page 14.

CDO Online Forums about Advertising and Solicitation



THE ADVERTISING AND SOLICITATION FORUM WILL REMAIN OPEN UNTIL JUNE 30TH, 2010.

Join the conversation about profession advertising and client solicitation on our new member forum. Some of your colleagues have already posted their thoughts and questions. In next *résumé*, we will directly address any issues or questions from the forum. To participate:

1. Go to the CDO website at www.cdo.on.ca
2. Access your *Member Home Page* with your member registration number and password.
3. Click on *eCommunities Home* on the bottom left of your *Member Home Page*. You will be asked to enter your registration number and password again to access the forum area of the website.
4. Before participating in the forum, go to *My Community News* and read the *Advertising and Solicitation Forum User Agreement*.
5. Once you have read the user guidelines and agreement, go to *My Communities* and access the discussion forum: *Advertising and Solicitation*.

In a recent member survey, RDs indicated that they would appreciate a College forum to exchange ideas and share knowledge with their colleagues across the province. We are pleased to provide this opportunity. Please let us know what you think.