

Advertising & Solicitation

CDO RESPONSES TO YOUR FEEDBACK

“Professionalism is a value that puts ethical and high quality services before self-interest... True professionalism does not just come from obeying written professional codes [or laws]; it is a mind-set informed by training, experience and professional relationships.” True professionalism is focused on working in a client’s best interest with integrity and honesty.

R. Steinecke & CDO, *The Jurisprudence Handbook for Dietitians in Ontario*, 2nd edition, p. 2.

Last March, the College asked members for feedback on the proposed amendments to the *Professional Misconduct Regulation* that would prohibit the use of personal client testimonials in advertising dietetic services and the direct solicitation of clients. We appreciate your feedback and thank all respondents to the survey.

In reviewing your comments, we found that there were misunderstandings about the terms “testimonials” and “solicitation”, and about the impact of the amendments on RD’s advertising practices. We felt it was important to clarify the confusion and to respond to your questions. Consequently, the proposed amendments to the *Professional Misconduct Regulation* have been put on hold and we have planned three *résumé* articles to inform and guide members about the principles underlying a responsible, professional approach to advertising and solicitation. After each article, we will open an online forum where members will be able to ask more questions and share their thoughts. To participate in the forums or to view them, an RD must register as a member of the online forum community (see the box below). The *résumé* articles and the forums are planned as follows:

1. *résumé Winter 2010*: Advertising & Solicitation — Answers to Your Concerns
 - Online Forum open from March 15 to April 7, 2010
2. *résumé Summer 2010*: Scenarios: Client Testimonials and Direct Solicitation of Clients
 - Online Forum open from August 15 to September 7, 2010
3. *résumé Fall 2010*: Advertising & Solicitation FAQs. Addressing concerns and questions that have arisen from the online forums.

We are confident that this educational series will address concerns and help dietitians appreciate that there are many professional, ethical and creative advertising options available that respect client boundaries and protect the public interest.

On the next page, we begin with addressing some fundamental questions raised by RDs in their feedback. The charts on page 6 & 7 review the advertising practices which are discouraged by the College, and those that are recommended.

Access the Advertising & Solicitation Forum

1. Access your *Member Home Page*, with your member registration number and password.
2. 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.
3. Before participating in the forum, go to *My Community News* and read the [Advertising and Solicitation Forum User Agreement](#).
4. Once you have read the user guidelines and agreement, go to *My Communities* and access the discussion forum: *Advertising and Solicitation*. You are now ready to participate.

“Is it really the College’s business to regulate how RDs advertise dietetic services?”

In the *Regulated Health Professions Act*, the College is given the authority by the Ministry of Health and Long-Term Care to articulate advertising regulations “respecting the promotion or advertising of the practice of the profession”.¹ In 2004, the Ministry published the *Policy Guidelines for Drafting Advertising Regulations*, giving the minimum criteria that should be considered to establish advertising provisions. In these guidelines, the Ministry proposes that the prohibition of client testimonials and the direct solicitation of clients be included in any advertising provisions made by the regulatory colleges.

Although the College relies on an RD’s professional judgment to do what is in the best interest of clients, there are times when a clear articulation of expectations best serves the public interest. Following a consultation with the Ministry and with the advice of legal counsel, the College decided to address the prohibitions regarding advertising and solicitation by amending the *Professional Misconduct Regulation* to express the minimum professional expectation rather than create a new advertising regulation. Should the proposed amended *Professional Misconduct Regulation* become law, it would send a clear message about what is not permitted and give flexibility in what is allowed in the advertising of dietetic services.

“The proposed prohibitions seem to give an advantage to unregulated individuals”

It is true that members of regulated health professions are held to a higher standard of practice than unregulated individuals. The public knows this and expects it. Having a protected title and being accountable to high standards is an advantage for RDs. The public is better served when they receive nutrition services from a regulated health professional, such as a Registered Dietitian, who is accountable to the College. The College’s public education campaign aims to educate the public about the benefits of using a regulated RD for nutrition services and about how the College works to protect the public.

While regulated health professions benefit from having a protected title and from being accountable to professional standards, they also have a responsibility to maintain public trust. For RDs, this means ensuring that their services are advertised in a professional, ethical and honest way, and that

they promote their business in a way that respects clients and keeps them from being pressured into accepting services they may not need nor want.

“How can using client testimonials or the direct solicitation of clients potentially be conflicts of interest?”

A conflict of interest results when a dietitian’s professional judgment is overtaken by a personal interest. In a professional relationship, a client should always feel safe in the knowledge that the RD is focused on them. Therein lies the danger of contacting clients for personal testimonials in advertising or directly soliciting individuals for business. When performing these actions, in the mind of a reasonable person, a dietitian’s primary concern may be perceived as being focused on their own interests, such as finding new business, instead of being focused on the client’s best interests. A client should never wonder, “If I don’t give permission for my testimonial to appear in her advertising, how will that affect my relationship with this RD? Will I continue to receive high-quality services?” Even former clients will wonder if their treatment was affected by a wish to obtain a testimonial. They might also feel uncomfortable in returning for treatment in the future.

Potentially, an action by an RD that is perceived as a conflict of interest may damage the professional/client relationship. It is the responsibility of an RD to nurture client trust and avoid situations where they may be perceived as self-serving.²

“How can using a client testimonial or the direct solicitation of a client potentially cross a professional boundary with a client?”

“A boundary crossing is like a conflict of interest, except that the competing interest is personal feelings rather than financial considerations”.³ As a professional, the RD has power and authority over clients, especially vulnerable individuals, and is responsible to avoid boundary crossings. Direct solicitation is, by nature, intrusive and crosses a boundary into a client’s personal space. Contacting a client or potential client directly by phone, personalized email or letter, to offer a service that was not requested, might be felt as intrusive, especially if the service is not welcomed or makes that person uncomfortable. Such intrusions may damage the professional/client relationship.

1. *Regulated Health Professions Act*, Schedule 2, Health Professions Procedural Code, 95.(1)
2. R. Steinecke & CDO, *The Jurisprudence Handbook for Dietitians in Ontario* (2008), chapter 9, Figure 9-1, “Am I in a conflict of interest?”, p. 112; and D. Cohen, “Conflict of Interest & RD Practice”, *résumé* Winter 2009), p. 4.
3. R. Steinecke & CDO, *Ibid*, p. 115.

ACCEPTABLE ADVERTISING PRACTICES

These professional and ethical practices protect the public and respect the client's best interests.

Advertising RD Services

RDs may:

- State factual information that is relevant in helping the public choose dietetic service providers. The laws already prohibit RDs from making false or misleading representations or deceptive claims in their advertising.
- State verifiable information, which can be checked for accuracy and reliability.
- Refer to aggregate results from publically available surveys or studies, which can be made available to the public.
- Have socially acceptable advertisement which avoids any explicit sexual or vulgar displays.
- Target your advertising at groups of clients rather than individuals.
- Make statements from organizations regarding the value of RDs (i.e., the *Heart & Stroke Foundation* promoting the services of RDs to help people eat well).
- List on their website (with consent) companies that use the RD's services. These services can be verified by individuals calling the company.
- Advertise services to medical professionals or other professionals to obtain referrals.

RDs may use any public medium for advertising their services, for example:

- Posters, flyers or other print-based publications, including mailings that are not personalized
- Websites & blogs (Note: RDs would not be permitted to create blogs inviting clients or others to post testimonials. They would need to monitor blogs to make sure that testimonials are not posted by their community members. RDs would only be held responsible for the blogs they personally manage and would not be expected to control information that is posted on blogs or websites that they do not manage directly or indirectly themselves.)
- Yellow Pages, Canada 411, Goldbook, or other business directories

Contacting Clients

Clients or potential clients should always initiate contacts for appointments.

RDs may use any professional, ethical and honest method for obtaining new clients as long as individuals are not solicited directly for appointments, which means that they are not asked, pursued or pressured by phone, by personalized email or any other personalized, direct method of communication.

RDs may:

- Directly contact clients to remind them of appointments.
- Follow-up with their clients to enquire about their progress within a reasonable amount of time after a treatment session.
- Accept a referral from a physician and call the client referred to them to make the appointment, as requested.
- Hand out business cards about their services as long as they do not pressure individuals to book an appointment.
- Offer a free assessment session when a client makes contact with an RD for services.
- Purchase a booth at a fair and advertise services with business cards and pamphlets. In this situation, potential clients are approaching the booth for information. However, individuals at the fair should not be actively pursued or pressured into making an appointment.
- Promote a nutrition program at a community event as long as individuals are not pursued or pressured into making an appointment.

ADVERTISING PRACTICES THAT ARE DISCOURAGED

These practices favour the RD's personal interests rather than the client's best interests.

The use of personal client testimonials in advertising is discouraged.

Definition of testimonial

A client testimonial is a personal testament or statement from an individual client about the services she/he has personally received from an RD.

Why using client testimonials may be unprofessional

- The truth or value of the testimonials cannot be verified by the public when client testimonials are used in advertisements for dietetic services. Testimonials are not evidenced-based.
- Testimonials from a select number of clients may not be representative of all clients and may be taken out of context..
- Asking a client for a testimonial may put an RD in a perceived or real conflict of interest: Is the RD putting a need to advertise for business ahead of the client's need to feel safe in the knowledge that their welfare is above all else?
- Testimonials may cross a professional boundary in the relationship between an RD and their clients by putting clients in an awkward position when asked to provide a testimonial for advertising. Even using, or requesting to use, unsolicited testimonials raises concerns about the privacy of the person sending the "appreciation note" , and the discomfort in refusing a request to use the note for promotional purposes.

The direct solicitation of clients is discouraged.

Clients should never be actively pursued or pressured into making an appointment.

Definition of Solicitation

Solicitation means contacting an individual or a client directly, either face-to-face, over the phone or other direct individual means of communication, to ask for or urge these individuals to make an appointment for nutrition services. Using personal information gathered from social networks such as Facebook, MySpace, etc., and contacting potential clients directly to book appointments is considered direct solicitation.

Why direct solicitation of clients may be unprofessional

- Solicitation is not client-centred in that it does not respect client choices and boundaries.
- Personalized individual contacts can lead to undue influence, pressure and discomfort on the part of the client in saying no, especially if the client is vulnerable.
- Direct solicitation of clients can also lead to the provision of unnecessary services.

If the proposed amended *Professional Misconduct Regulation* eventually becomes law, RDs will not be allowed to solicit business by directly contacting clients or potential clients in person, by phone or by direct personalized mail or email.