Board of Behavioral Sciences

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Memo

To: Committee Members **Date:** September 19, 2023

From: Rosanne Helms
Legislative Manager

Subject: **Discussion of Advertising Statutes and Regulations**

Current Statutes and Regulations Related to Advertising

The Board sets requirements for advertising by its licensees and registrants via its advertising regulations, found in §1811 of Title 16 of the California Code of Regulations (16 CCR) (**Attachment A**). The last significant changes to the advertising regulations were made in 2013.

In addition to the Board's advertising regulations, all healing arts boards under the Department of Consumer Affairs (DCA) are subject to Business and Professions Code (BPC) §651. BPC §651 prohibits false or misleading advertising. It contains a definition of a "public communication" for purposes of advertising to include communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication. It also contains a definition of a false, fraudulent, misleading, or deceptive statement or claim.

The Board also has a statute for each license type (BPC §§4980.03(e), 4989.49, 4992.2, 4999.12(j)) that specifically defines advertising.

Finally, BPC §§4980.44 and 4980.48 contain client disclosure requirements (prior to initiating services) and advertising requirements that are specific only to MFT associates and trainees, respectively.

The above-referenced statutes are shown in **Attachment B.**

On its website, the Board provides an advertising requirement fact sheet which explains the Board's advertising laws and provides examples of acceptable advertising (**Attachment C**).

Previous Recommendation

The Policy and Advocacy Committee last discussed advertising at its October 2022 meeting. It directed staff to look further into modernizing the Board's advertising laws.

Overview of Areas for Discussion

Staff conducted further review of the Board's advertising laws, as well as review of the advertising laws of other states and other DCA boards. Discussion areas are grouped into five categories:

1. Review of Advertising Laws at Other DCA Boards and in Other States
2. Advertising Regulations (16 CCR §1811)
3. Statute for MFT Associates (BPC §4980.44)
4. Statute for MFT Trainees (BPC §4980.48)
5. Amendment of Advertising Definition for LPCCs (BPC §4999.12(j))

Discussion Areas

1. Review of Advertising Laws at Other DCA Boards and in Other States

In order to determine whether the Board's advertising regulations need modernization due to the increased use of online and other electronic communications, staff reviewed the statutes and regulations of several other healing arts boards under DCA. Additionally, the Association of Social Work Boards (ASWB) provided a compilation of the advertising laws of social work boards in several other states.

Overall, the Board's advertising regulations appear in line with those at other boards and states, and in most cases, are more specific about what is required in an advertisement.

Other DCA Boards

The Board of Psychology is the most similar to this Board in its scope of practice. Its advertising regulations are found in 16 CCR §§1380.6 and 1397.

> *§1380.6 Pursuant to Section 137 of the Code, every licensed psychologist shall include his or her number in any advertising, public directory, or solicitation, regardless of whether such a presentment is made under the licensee's own name, a fictitious business or group name or a corporate name.*
> *This requirement shall not apply to psychologists practicing in governmental organizations, nonprofit organizations which are engaged in research, education or services which services are defined by a board composed of community representatives and professionals.*

§1397 A licensed psychologist may advertise the provision of any services authorized to be provided by such license within the psychologist's field of competence in a manner authorized under Section 651 of the Code, so long as such advertising does not promote the excessive or unnecessary use of such services.

Staff also reviewed the advertising regulations of the Acupuncture, Physical Therapy, and Chiropractic boards and found them somewhat similar to Psychology Board's regulations; they prohibit the use of false or misleading advertising pursuant to BPC §651, but do not go into as much detail as BBS's regulations regarding the components an advertisement may or may not contain.

However, staff did find one unique component of Dental Board's advertising regulations, in that they define what is <u>not</u> considered an advertisement (16 CCA §1054.3)

§1054.3(a) For purposes of this article, "advertising" or "advertisement" means:
(1) Any written or printed communication for the purpose of soliciting, describing, or promoting a dentist's licensed activities, including a brochure, letter, pamphlet, newspaper, telephone listing, periodical, business card or other writing.
(2) Any directory listing caused or permitted by a dentist which indicates his or her licensed activity.
(3) Any radio, television, computer network or similar airwave or electronic transmission which solicits or promotes the dentist's practice.
(4) Any printing or writing on novelty objects or dental care products.
(b) "Advertising" or "advertisement" does not include any of the following:
(1) Any printing or writing used on buildings, uniforms or badges, where the purpose of the writing is for identification.
(2) Any printing or writing on memoranda or other communications used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of the dentist's practice.

<u>Other States</u>

ASWB provided the Board with a compilation of the advertising laws of social work boards in several other states. Many are similar in nature to California's BPC §651 in that they prohibit advertising from being fraudulent, misleading, or misrepresenting. Those laws are shown in **Attachment D.** Some noteworthy findings are as follows:

- The states of Minnesota and Florida outline the titles that must be used in advertisements for both licensees and pre-licensed registrants, similar to this Board's regulations.

- Texas law also specifies the titles that must be used in advertisements and indicates that social media communications used to advertise or announce a licensee's professional services must contain the person's license designation and any specialty recognition. (Texas Administrative Code Title 22, §781.316(c))

2. Advertising Regulations (16 CCR §1811) (Attachment A):

Several minor technical amendments are proposed to the Board's advertising regulations in 16 CCR §1811, including the following:

- Delete references to MFT Referral Services, as the Board no longer licenses these services.

- Delete use of the title "Registered Associate CSW," as it is not a title that is typically used by the profession.

- Replace gendered pronouns with gender-neutral pronouns.

- Discuss the suggestion to clarify whether the use of a nickname (or pseudonym?) is allowed in advertisements. Staff proposes adding language stating use of a nickname is allowed, if the full name as filed with the Board is also included in the advertisement.

3. Statutes for MFT Associates (BPC §4980.44) (Attachment B)

- **BPC §4980.44(a)** requires that MFT associates inform each client that they are an unlicensed registrant, provide their registration number, name of employer, and indicate what type of licensee is supervising them.

  The subdivision, which is much more detailed in its requirements than the comparable statutes for ASWs and APCCs, states the following:

  > *BPC §4980.44(a) Inform each client or patient prior to performing any mental health and related services that the person is an unlicensed registered associate marriage and family therapist, provide the person's registration number and the name of the person's employer, and indicate whether the person is under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900), licensed educational psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.*

In contrast, here are the comparable statutes discussing what ASWs and APCCs must disclose:

> *For ASWs: BPC §4996.18(g) All applicants and registrants shall inform each client or patient before performing any professional services that the applicant or registrant is unlicensed and is under the supervision of a licensed professional.*
>
> *For APCCs: BPC §4999.46.1(b) An associate shall do both of the following:*
> *(1) Inform each client, before performing any professional services, that the associate is unlicensed and under supervision.*

Staff recommends that these disclosure requirements should be consistent for all types of associates. The Committee should discuss what level of detail is appropriate for disclosure. Staff also recommends that instead of using the term "associate" the term "all applicants and registrants" should be used, to account for 90-day rule applicants who are working, but who are not associates yet.

- **BPC §4980.44(b)** specifies additional information that must be contained in an MFT associate's advertisement (that the person is a registrant, the registration number, the name of the employer, and that they are supervised by a licensed person). It also specifies that the abbreviation "AMFT" not be used unless the term "registered associate marriage and family therapist" also appears in the advertisement.

  Every requirement contained in BPC §4980.44(b) is already contained in the advertising regulations (§1811) except for one: the requirement that they disclose in the advertisement that they are supervised by a licensed person. Therefore, staff recommends that BPC §4980.44(b) be struck in its entirety, and that the Committee should discuss the one difference - whether or not it is necessary for associates to disclose that they are supervised by a licensed person. If the Committee decides that this should be disclosed, it should be added to §1811 so that it applies to all types of registrants, not just AMFTs.

4. Statute for MFT Trainees (BPC §4980.48) (Attachment B)

- **BPC §4980.48(a)** requires that MFT trainees inform each client that they are an unlicensed trainee, provide the name of their employer, and indicate what type of licensee is supervising them.

  The subdivision, which is much more detailed in its requirements than the comparable statutes for social work interns and PCC trainees, states the following:

BPC §4980.48(a) A trainee shall, prior to performing any professional services, inform each client or patient that the trainee is an unlicensed marriage and family therapist trainee, provide the name of the trainee's employer, and indicate whether the trainee is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed educational psychologist.

In contrast, here are the comparable statutes discussing what social work interns and PCC trainees must disclose:

For social work interns: 16 CCR §1880 An unlicensed person employed under Section 4996.15 of the Code to perform limited social work functions shall inform each patient or client prior to performing any such functions that he or she is not a licensed clinical social worker and is under the supervision of a licensed clinical social worker, marriage and family therapist, licensed professional clinical counselor, or a licensed psychologist or a licensed psychiatrist, whichever is applicable.

For PCC trainees: BPC §4999.36(d) A clinical counselor trainee shall inform each client or patient, prior to performing any professional services, that he or she is unlicensed and under supervision.

Like associates, staff recommends that these disclosure requirements should be consistent as possible for all types of trainees/interns. The Committee should discuss what level of detail is appropriate for disclosure.

- **BPC §4980.48(b) and (c)** specify additional information that must be contained in a trainee's advertisement: the trainee's name, the supervisor's license designation or abbreviation, and the supervisor's license number. It also specifies that the trainee must include their trainee status, the name of the trainee's employer, and that they are supervised by a licensed person.

  MFT and PCC trainees, and social work interns, are not included in the advertising regulations, because they are not registered with the Board and therefore not technically under its jurisdiction yet. However, unlike PCC trainees and social work interns, MFT trainees can count pre-degree hours toward licensure, which means that the Board has more purview over them than other types of pre-licensed students, because the Board sets criteria they need to meet in order for their pre-degree hours to count. Therefore, staff believes that it is appropriate to have a section in statute for MFT trainees outlining some basic advertising requirements. However, the Committee

should review the requirements listed in subdivisions §4980.48(b) and (c) to determine if they should be streamlined.

5. **Amendment of Advertising Definition for LPCCs (BPC §4999.12(j)) (Attachment B)**

   LPCC statute defines "advertising" in a slightly different way than the other 3 license types. The definition, which is located in BPC §4999.12(g), does not reference a public communication as defined in BPC §651(a), as the definition for the Board's other 3 license types do.

   This omission could affect the clarity of how advertising is defined for LPCCs. Specifically, §651's "public communication" definition includes electronic communications, while §4999.12(g) for LPCCs does not loop this in. Although §651 applies to LPCCs by default (they are a healing art license type and thus subject to the statute) it may be preferable to clarify this in §4999.12, like the other practice acts do.

   The first page of **Attachment B** shows the wording of the "advertising" definition in statute for each license type.

   The Committee should discuss amending the definition of advertising in BPC §4999.12(g) to match the definition in the Board's other practice acts.

Recommendation

Conduct an open discussion about the Board's advertising laws to determine if any updates are needed.

Attachments

Attachment A: 16 CCR §1811 – Advertising Regulations

Attachment B: Relevant Statutes

Attachment C: Fact Sheet: Licensee and Registrant Advertising Requirements

Attachment D: State Regulations Pertaining to Advertising Requirements for Licensed Social Workers (Association of Social Work Boards, July 28, 2023)

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ATTACHMENT A
16 CCR §1811
PROPOSED AMENDMENTS TO ADVERTISING REGULATIONS

§ 1811. Advertising.

(a) All persons ~~or referral services~~ regulated by the board who advertise their services shall include all of the following information in any advertisement.

(1) The full name of the licensee~~,~~or registrant~~, or registered referral service~~ as filed with the board.

(2) The complete title of the license or registration held or an acceptable abbreviation, as follows:

(A) Licensed Marriage and Family Therapist, or MFT, or LMFT.

(B) Licensed Educational Psychologist or LEP.

(C) Licensed Clinical Social Worker or LCSW.

(D) Registered Associate Marriage and Family Therapist or Registered Associate MFT. The abbreviation "AMFT" shall not be used in an advertisement unless the title ~~"registered associate marriage and family therapist"~~ "Registered Associate Marriage and Family Therapist" appears in the advertisement.

(E) Registered Associate Clinical Social Worker ~~or Registered Associate CSW~~. The abbreviation "ASW" shall not be used in an advertisement unless the title ~~"registered associate clincal social worker"~~ "Registered Associate Clinical Social Worker" appears in the advertisement.

~~(F) Registered MFT Referral Service.~~

~~(G)~~(F) Licensed Professional Clinical Counselor or LPCC.

~~(H)~~(G) Registered Associate Professional Clinical Counselor or Registered Associate PCC. The abbreviation "APCC" shall not be used in an advertisement unless the title ~~"registered associate professional clinical counselor"~~ "Registered Associate Professional Clinical Counselor" appears in the advertisement.

(3) The license or registration number.

(b) Registrants must include the name of ~~his or her~~ their employer in an advertisement, or if not employed, the name of the entity for which ~~he or she volunteers~~ they volunteer.

(c) Licensees may use the words "psychotherapy" or "psychotherapist" in an advertisement provided that all the applicable requirements of subsection (a) are met.

(d) It is permissible for a person to include academic credentials in advertising as long as the degree is earned, and the representations and statements regarding that degree are true and not misleading and are in compliance with Section 651 of the Code. For

purposes of this subdivision, “earned” shall not mean an honorary or other degree conferred without actual study in the educational field.

(e) The board may issue citations and fines containing a fine and an order of abatement for any violation of Section 651 of the Code.

(f) For the purposes of this section, “acceptable abbreviation” means the abbreviation listed in subsection (a)(2) of this Section.

(h) Use of a nickname *(pseudonym?)* or alternate name in an advertisement is permitted, as long as the full name as filed with the board is also included in the advertisement.

Note: Authority cited: Sections 137, 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 125.9, 137, 650.4, 651, 4980.03, 4980.09, 4980.44, 4982, 4989.49, 4989.54, 4992.2, 4992.3, 4999.12, 4999.12.5 and 4999.90, Business and Professions Code.

ATTACHMENT B
RELEVANT STATUTES

1. "Advertising" and "Advertisement" Definition

Business and Professions Code (BPC) §4980.03(e) (LMFT Statute)
(e) "Advertise," as used in this chapter, includes, but is not limited to, any public communication, as defined in subdivision (a) of Section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in church bulletins mailed to a congregation are not advertising within the meaning of this chapter.

BPC § 4989.49 (LEP Statute)
"Advertising," as used in this chapter, includes, but is not limited to, any public communication as defined in subdivision (a) of Section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper, magazine, or directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in bulletins from a religious organization mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

§ 4992.2 (LCSW Statute)
"Advertising," as used in this chapter, includes, but is not limited to, any public communication as defined in subdivision (a) of Section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper, magazine, or directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in bulletins from a religious organization mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

BPC §4999.12(j) (LPCC Statute)
(j) "Advertising" or "advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation are not advertising within the meaning of this chapter.

2. Definition of "Public Communication"; Prohibition of False Advertising

BPC §651

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, “as low as,” “and up,” “lowest prices,” or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician's and surgeon's licensing board prior to January 1, 2019, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience. A multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2019, shall retain that approval.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician's and surgeon's licensing board prior to January 1, 2019, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

(D) A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventive or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this

section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California or a doctor of podiatric medicine licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

3. Advertising Requirements Specific to Marriage and Family Therapist Associates and Trainees

BPC §4980.44. (AMFTs)

An associate marriage and family therapist employed under this chapter shall comply with the following requirements:

(a) Inform each client or patient prior to performing any mental health and related services that the person is an unlicensed registered associate marriage and family therapist, provide the person's registration number and the name of the person's employer, and indicate whether the person is under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900), licensed educational psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

(b) (1) Any advertisement by or on behalf of a registered associate marriage and family therapist shall include, at a minimum, all of the following information:

(A) That the person is a registered associate marriage and family therapist.

(B) The associate's registration number.

(C) The name of the person's employer.

(D) That the person is supervised by a licensed person.

(2) The abbreviation "AMFT" shall not be used in an advertisement unless the title "registered associate marriage and family therapist" appears in the advertisement.

BPC §4980.48. (MFT Trainees)

(a) A trainee shall, prior to performing any professional services, inform each client or patient that the trainee is an unlicensed marriage and family therapist trainee, provide the name of the trainee's employer, and indicate whether the trainee is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed educational psychologist.

(b) Any person that advertises services performed by a trainee shall include the trainee's name, the supervisor's license designation or abbreviation, and the supervisor's license number.

(c) Any advertisement by or on behalf of a marriage and family therapist trainee shall include, at a minimum, all of the following information:

(1) That the trainee is a marriage and family therapist trainee.

(2) The name of the trainee's employer.

(3) That the trainee is supervised by a licensed person.

Board of Behavioral Sciences

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov

ATTACHMENT C

Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

Fact Sheet
Licensee and Registrant Advertising Requirements

Licensees and registrants must include all of the following information in any advertisement:

1. Your full name, as filed with the Board; and
2. Your license or registration number; and
3. Your complete title, or an abbreviation deemed acceptable by the Board. Acceptable titles and abbreviations are as follows:

If you are a…	You may use the following titles and/or abbreviations in advertisements:
Licensed Marriage and Family Therapist	• Licensed Marriage and Family Therapist; OR • MFT; OR • LMFT
Registered Associate Marriage and Family Therapist	• Registered Associate Marriage and Family Therapist [1]; OR • Registered Associate MFT
Licensed Educational Psychologist	• Licensed Educational Psychologist; OR • LEP
Licensed Clinical Social Worker	• Licensed Clinical Social Worker; OR • LCSW
Registered Associate Clinical Social Worker	• Registered Associate Clinical Social Worker [2]; OR • Registered Associate CSW
Licensed Professional Clinical Counselor	• Licensed Professional Clinical Counselor; OR • LPCC
Registered Associate Professional Clinical Counselor	• Registered Associate Professional Clinical Counselor [3]; OR • Registered Associate PCC

[1] The abbreviation-**AMFT** may only be used in an advertisement if the title "Registered Associate Marriage and Family Therapist" is also used.

[2] The abbreviation-**ASW** may only be used in an advertisement if the title "Registered Associate Clinical Social Worker" is also used.

[3] The abbreviation-**APCC** may only be used in an advertisement if the title "Registered Associate Professional Clinical Counselor" is also used.

Additional Requirement for Registrants: If you are a registered associate, your advertisement must also include the name of your employer or the name of the entity for which you volunteer. If you are an AMFT, you must also state in the advertisement that you are supervised by a licensed person.

Requirements for MFT Trainees: Any advertisement by or on behalf of an MFT Trainee shall include all of the following[1]:

- That he or she is a "marriage and family therapist trainee"
- The name of his or her employer
- That he or she is supervised by a licensed person.

Use of the Terms "Psychotherapy" or "Psychotherapist": Use of these terms is permissible as long as your advertisement contains all of the information required by law, as listed above.

Use of Academic Credentials: Reference to academic credentials is permitted in your advertisement as long as your degree is earned (not an honorary degree or conferred without actual study) and representations and statements made about your degree are not misleading.

Definition of "Advertising": Advertising includes, but is not limited to[2], any public communication (including, but not limited to mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication), the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. For more information, see Section 651 of the Business and Professions Code.

Unprofessional Conduct in Advertising: The following are considered unprofessional conduct[3]:

- Advertising in a manner that is false, fraudulent, misleading or deceptive.
- Misrepresentation as to the type or status of a license or registration, or otherwise misrepresenting education, professional qualifications, or professional affiliations.

For more information, see the Board's *Statutes and Regulations*.

[1] Business and Professions Code (BPC) Section 4980.48(c)
[2] BPC Sections 4980.03(e) (LMFT); 4989.49 (LEP); 4992.2 (LCSW); and 4999.12(j) (LPCC)
[3] BPC Sections 4982(f),(p) (LMFT); 4989.54(e),(i) (LEP); 4992.3(g),(q) (LCSW); and 4999.90(f),(p) (LPCC)

Board of Behavioral Sciences

SAMPLE ADVERTISING FORMATS

REGISTRANTS

Mary Doe Registered Associate Marriage and Family Therapist AMFT 99999 Employed by Company ABC Supervised by Jane Smith, Licensed Marriage and Family Therapist	Mary Doe, M.A., Ph.D., AMFT Registered Associate Marriage and Family Therapist Registration No. AMFT 99999 Company ABC Supervised by Jane Smith, LMFT
Rafael Garcia Registered Associate Clinical Social Worker ASW 99999 Employed by Any Town Therapy	Rafael Garcia, M.S.W., Ph.D. Registered Associate Clinical Social Worker Any Town Therapy Registration No. ASW 99999
Jack Smith XYZ Charity Registered Associate Professional Clinical Counselor APCC 99999	Jack Smith, M.A., Ph.D., APCC Registered Associate Professional Clinical Counselor Registration Number APCC 99999 Volunteer for XYZ Charity

LICENSEES

Jane Smith Any Town Therapy Licensed Marriage and Family Therapist LMFT 99999	Jane Smith, Ph.D., LMFT Psychotherapist License No. LMFT 99999
Mary Lopez, LEP Licensed Educational Psychologist LEP 9999	Mary Lopez, M.A., Ed.D., LEP Psychotherapist License Number LEP 9999
John Jones Licensed Clinical Social Worker LCSW 99999	John Jones, M.S.W., LCSW License No. LCSW 99999 Providing Psychotherapy Since 2000
Jin Fong Licensed Professional Clinical Counselor LPCC 99999	Jin Fong, M.S., Ph.D., LPCC Any Town Therapy Psychotherapy Services License Number LPCC 99999

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ATTACHMENT D

MEMORANDUM

To: California Board of Behavioral Sciences
Roseanne Helms, Legislative Manager
Steve Sodergren, Executive Officer

From: Association of Social Work Boards
Cara Sanner, Regulatory Support Services Program Manager

Re: State regulations pertaining to advertising requirements for licensed social workers

Date: July 28, 2023

This memo follows up on the request for information on other state regulations pertaining to advertising requirements for licensed social workers. BBS is exploring updates to advertising requirements to address use of electronic and verbal advertising including the use of social media platforms. I made an inquiry to the Administrators' Listserv and received very little response. I think this is because few states address advertising restrictions in this regard. I reviewed a compilation of practice standards for all the states and included excerpts pertaining to advertising. It is worthwhile to review them all, however, I think Texas may offer the most information for BBS efforts. Please keep us updated on your efforts! California will be leading the other state boards on this issue.

Colorado 2
Florida 2
Idaho 3
Kansas 3
Louisiana 4
Massachusetts 4
Minnesota 5
New Hampshire 6
North Carolina 6
Montana 7
New York 7
Pennsylvania 8
Tennessee 9
Texas 10

Colorado

Colorado Revised Statutes
12-245-224. Prohibited activities - related provisions.
(1) A person licensed, registered, or certified under this article 245 violates this article 245 if he or she:
(c) Has used advertising that is misleading, deceptive, or false;
(d) (I) Has committed abuse of health insurance pursuant to section 18-13-119, C.R.S.;
(II) Has advertised through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that the person will perform any act prohibited by section 18-13-119, C.R.S.;

Florida

2022 Florida Statutes
491.009 Discipline.—
(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) or s. 491.017:
(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.
(e) Advertising, practicing, or attempting to practice under a name other than one's own.
(f) Maintaining a professional association with any person who the applicant, licensee, registered intern, or certificate holder knows, or has reason to believe, is in violation of this chapter or of a rule of the department or the board.

491.0149 Display of license; use of professional title on promotional materials.—
(1)(a) A person licensed under this chapter as a clinical social worker, marriage and family therapist, or mental health counselor, or certified as a master social worker shall conspicuously display the valid license issued by the department or a true copy thereof at each location at which the licensee practices his or her profession.
(b)1. A licensed clinical social worker shall include the words "licensed clinical social worker" or the letters "LCSW" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.
2. A licensed marriage and family therapist shall include the words "licensed marriage and family therapist" or the letters "LMFT" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.
3. A licensed mental health counselor shall include the words "licensed mental health counselor" or the letters "LMHC" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.
(2)(a) A person registered under this chapter as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern shall conspicuously display the valid registration issued by the department or a true copy thereof at each location at which the registered intern is completing the experience requirements.
(b) A registered clinical social worker intern shall include the words "registered clinical social worker intern," a registered marriage and family therapist intern shall include the words "registered marriage and family therapist intern," and a registered mental health counselor intern shall include the words "registered mental health counselor intern" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the registered intern.
(3)(a) A person provisionally licensed under this chapter as a provisional clinical social worker licensee, provisional marriage and family therapist licensee, or provisional mental health counselor licensee shall

conspicuously display the valid provisional license issued by the department or a true copy thereof at each location at which the provisional licensee is providing services.
(b) A provisional clinical social worker licensee shall include the words “provisional clinical social worker licensee,” a provisional marriage and family therapist licensee shall include the words “provisional marriage and family therapist licensee,” and a provisional mental health counselor licensee shall include the words “provisional mental health counselor licensee” on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the provisional licensee.

Idaho

Rules of the State Board of Social Work Examiners
Rule 450. Statement of Public Policy and Code of Professional Conduct
04. The Advertising Rules for Social Workers. No social worker shall disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising shall be deemed by the board to be fraudulent, false, deceptive, or misleading if it:
a. Contains a misrepresentation of fact; or
b. Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. More specifically, it is misleading and deceptive for a social worker to advertise free services or services for a specific charge when in fact the social worker is transmitting a higher charge for the advertised services to a third-party payor for payment or charges the patient or a third party. It is misleading and deceptive for a social worker or a group of social workers to advertise a social work referral service or bureau unless the advertisement specifically names each of the individual social workers who are participating in the referral service or bureau.
c. Creates false or unjustified expectations of beneficial treatment or successful outcomes; or
d. Fails to identify conspicuously the social worker or social workers referred to in the advertising as a social worker or social workers; or
e. Contains any representation or claims, as to which the social worker, referred to in the advertising, fails to perform; or
f. Contains any representation which identifies the social worker practice being advertised by a name which does not include the terms “social worker,” “social work,” or some easily recognizable derivation thereof; or its authorized agents, which is superior to the license and recognition granted to any social worker who
successfully meets the licensing requirements of Chapter 32, Title 54, Idaho Code; or
h. Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to the profession or professional status of the social worker; or
i. Contains any other representation, statement, or claim which is misleading or deceptive.

Kansas

K.A.R. 102-2-7
Any of the following acts by a licensee or an applicant for social work license shall constitute unprofessional conduct:
(w) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation.

Louisiana

L.A.C. Title 46, Part XXV
§119. Representation to the Public
A. Use of Social Worker Designation. A social worker shall use only the social worker designation to which they are entitled. Such designation shall be used after the social worker's name and in all written communications relating to social work practice, including any advertising, correspondence, and client records.
B. Information to Clients or Potential Clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client, potential client or supervisee. A social worker shall not misrepresent directly or by implication the social worker's license, certificate, registration, degree, and/or professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.
C. Restriction on Social Work Designation. Social workers, regardless of the license, certificate, or registration, shall not use such designation as a claim, promise, or guarantee of successful service, nor imply that the holder has competence in another service. A social worker must not misrepresent his/her qualifications, training, or experience. If a social worker engages in advertising, his/her credentials must be presented factually.
D. Display of Credentials. A social worker shall conspicuously display a current license, certificate, or registration issued by the board at the social worker's place of practice. E. Mailing Address. A social worker shall file a change of address with the board within 15 business days.

Massachusetts

Code of Massachusetts Regulations
258 CMR 20: Standards of professional practice and conduct
20.01: Unethical or Unprofessional Conduct Generally
A social worker shall not engage in unethical or unprofessional conduct. "Unethical or unprofessional conduct" includes, but is not limited to, the following:
20.14: Unlawful Advertising Practices
(1) A social worker shall not advertise for clients in a manner that is false, deceptive, or misleading.
(2) A licensed social worker shall not:
(a) Fail or refuse to disclose his or her licensure level in any print, electronic or other advertising materials used to inform the public about his or her practice;
(b) Perform any advertised function or service at a fee or cost which is higher than the fee or cost advertised, unless:
1. the social worker cannot reasonably charge the advertised amount because of unforeseen circumstances,
2. the social worker informs all parties directly involved of those unforeseen circumstances, and
3. the social worker obtains the informed written consent of all parties directly involved prior to performing the function or service at the higher amount;
(c) Otherwise fail to comply with all representations contained in any advertisement; or
(d) Communicate any advertisement to the public by use of radio, television, motion pictures or other electronic media unless:

1. such advertisement has been pre-recorded and approved for broadcasting or dissemination by the social worker, and
2. a copy of such advertisement is retained by the social worker and made available to the Board upon request.
(3) A group social work practice shall not fail to disclose or provide the names and licensure levels of all social workers employed by or affiliated with the group practice, including supervisors and consultants.

Minnesota

2022 Minnesota State Statute 148E.001-148E.290
148E.185 PURPOSE OF COMPLIANCE LAWS. The purpose of sections 148E.185 to 148E.290 is to protect the public by ensuring that all persons licensed as social workers meet minimum standards of practice. The board shall promptly and fairly investigate and resolve all complaints alleging violations of statutes and rules that the board is empowered to enforce and (1) take appropriate disciplinary action, adversarial action, or other action justified by the facts, or (2) enter into corrective action agreements or stipulations to cease practice, when doing so is consistent with the board's obligation to protect the public.

148E.195 REPRESENTATIONS TO CLIENTS AND PUBLIC.
Subdivision 1. Required displays and information for clients. (a) A social worker must conspicuously display at the social worker's places of practice, or make available as a handout for all clients, information
that the client has the right to:
(1) be informed of the social worker's license status, education, training, and experience;
(2) examine public data on the social worker maintained by the board;
(3) report a complaint about the social worker's practice to the board; and
(4) be informed of the board's mailing address, e-mail address, website address, and telephone number.
(b) A social worker must conspicuously display the social worker's wall certificate at the social worker's places of practice and office locations. Additional wall certificates may be requested according to section 148E.095. (a) No applicant or other individual may be represented to the public by any title incorporating the words
"social work" or "social worker" unless the individual is employed by a county or holds a license according
to this chapter.
(b) In all professional use of a social worker's name, the social worker must use the license designation "LSW" or "licensed social worker" for a licensed social worker, "LGSW" or "licensed graduate social worker" for a licensed graduate social worker, "LISW" or "licensed independentsocial worker" for a licensed
independent social worker, or "LICSW" or "licensed independent clinical social worker" for a licensed independent clinical social worker.
(c) Public statements or advertisements must not be untruthful, misleading, false, fraudulent, deceptive, or potentially exploitative of clients, former clients, interns, students, supervisees, or the public.
(d) A social worker must not:
(1) use licensure status as a claim, promise, or guarantee of successful service;
(2) obtain a license by cheating or employing fraud or deception;
(3) make false statements or misrepresentations to the board or in materials submitted to the board; or
(4) engage in conduct that has the potential to deceive or defraud a social work client, intern, student,

supervisee, or the public.
Subd. 3. Information on credentials.
(a) A social worker must provide accurate and factual information concerning the social worker's credentials, education, training, and experience when the information is requested by clients, potential clients, or other persons or organizations.
(b) A social worker must not misrepresent directly or by implication the social worker's license, degree, professional certifications, affiliations, or other professional qualifications in any oral or written communications to clients, potential clients, or other persons or organizations. A social worker must take reasonable steps to prevent such misrepresentations by other social workers.
(c) A social worker must not hold out as a person licensed as a social worker without having a social work license according to sections 148E.055 and 148E.060.
(d) A social worker must not misrepresent directly or by implication (1) affiliations with institutions or organizations, or (2) purposes or characteristics of institutions or organizations with which the social worker is or has been affiliated.

New Hampshire

Administrative Rules of New Hampshire
Chapter Mhp 500 Ethical and Professional Standards, Responsibilities of Licensees
Part Mhp 501 Ethical and Professional Standards

PART Mhp 502 RESPONSIBILITIES OF LICENSEES
Mhp 502.01 Responsibilities of Licensees.
(i) A licensee shall not advertise any service as free if the patient is charged for any aspect of the treatment provided on the office visit when the free service was provided, or otherwise engage in any false or misleading advertising.

North Carolina

21 NCAC 63 .0509 PUBLIC STATEMENTS
(a) Public statements, announcements of services and promotional activities of social workers serve the purpose of providing sufficient information to aid consumers in making informed judgments and choices. Social workers shall state accurately, objectively and without misrepresentation their professional qualifications, affiliations and functions as well as those of the institutions or organizations with which they or their statement may be associated. They shall correct misrepresentations by others with respect to these matters.
(b) In announcing availability for professional services, a social worker shall use his or her name, type and level(s) of certification and licensure; and may use highest relevant academic degree from an accredited institution; specialized post-graduate training; address and telephone number; office hours; type of services provided; appropriate fee information; foreign languages spoken; and policy with regard to third-party payments.
(c) Social workers shall not offer to perform any service beyond the scope permitted by law or beyond the scope of their competence. They shall not engage in any form of advertising which is false, fraudulent, deceptive, or misleading. They shall neither solicit nor use recommendations or testimonials from clients.
(d) Social workers shall respect the rights and reputations of professional organizations with which they are affiliated. They shall not falsely imply sponsorship or certification by such organizations. When

making public statements, the social worker shall make clear which are personal opinions and which are authorized statements on behalf of an organization.
(e) A social worker shall display his or her license or certificate at the social worker's primary place of practice as required by G.S. 90B-15.

Montana

ARM Title 24, Chapter 219
24.219.2301 UNPROFESSIONAL CONDUCT AND CODE OF ETHICS – LCSW, LMSW, LBSW, LCPC, LMFT, LAC, CBHPSS, AND LCSW, LMSW, LBSW, LCPC, LMFT, AND LAC CANDIDATES
(1) Any violation of this rule constitutes unprofessional conduct.
(2) A licensee shall not:
(c) misrepresent or permit the misrepresentation of the licensee's professional qualifications, affiliations, or purposes;
(d) perform or hold the licensee out as able to perform professional services beyond the licensee's field or fields of competence as established by the licensee's education, training, and/or experience;
(e) misrepresent the type or status of license held by the licensee;
(f) fail to indicate licensure candidate status in professional communications and documentation;
(g) engage in any advertising which is in any way fraudulent, false, deceptive, or misleading;
(h) commit fraud or misrepresent services performed;

New York

Rules of the Board of Regents
Part 29, Unprofessional Conduct
§ 29.1 General provisions.
a. Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.
b. Unprofessional conduct in the practice of any profession licensed, certified or registered pursuant to title VIII of the Education Law, except for cases involving those professions licensed, certified or registered pursuant to the provisions of Article 131 or 131-B of such law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of Chapter 606 of the Laws of 1991, shall include:
12. advertising or soliciting for patronage that is not in the public interest:
i. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:
a. is false, fraudulent, deceptive or misleading;
b. guarantees any service;
c. makes any claim relating to professional services or products or the cost or price therefore which cannot be substantiated by the licensee, who shall have the burden of proof;
d. makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or
e. offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.
ii. The following shall be deemed appropriate means of informing the public of the availability of professional services:
a. informational advertising not contrary to the foregoing prohibitions; and

b. the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.

iii. a. all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or videotape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department;
b. a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;
iv. Testimonials, demonstrations, dramatizations, or other portrayals of professional practice are permissible provided that they otherwise comply with the rules of professional conduct and further provided that the following conditions are satisfied:
a. the patient or client expressly authorizes the portrayal in writing;
b. appropriate disclosure is included to prevent any misleading information or imagery as to the identity of the patient or client;
c. reasonable disclaimers are included as to any statements made or results achieved in a particular matter;
d. the use of fictional situations or characters may be used if no testimonials are included; and
e. fictional client testimonials are not permitted;

Pennsylvania

Pennsylvania Code
Chapter 47. State Board of Social Workers, Marriage and Family Therapists and Professional Counselors
Code of Ethical Practice and Standards of Professional Conduct
§ 47.80. Advertising.
(a) Definition. Advertising is defined as the engagement in general informational activities, including those that enable the public, referral sources or others to choose professional services on an informed basis.
(b) Engagement in advertising.
(1) Licensees may engage in advertising that accurately represents their competencies, education, training and experience relevant to their professional practice. Licensees may not advertise their services and credentials in a manner that is false, misleading, deceptive or fraudulent.
(2) Licensees shall ensure that advertisements and publications in any media, such as directories, announcements, business cards, newspapers, radio, television, internet and facsimiles, convey information that is necessary for the public to make an appropriate selection of professional services. This information may include the following:
(i) Office information, such as name, address, telephone number and credit card acceptability.
(ii) Earned degrees and State or provincial licensures or certifications.
(iii) Professional association member status.
(iv) Description of practice.
(3) Licensees may not use names that could mislead the public concerning the identity, responsibility, source or status of those practicing under that name, and may not hold themselves out as being partners or associates of a firm if they are not partners or associates of the firm.

(4) Licensees may not use any professional identification, such as a business card, office sign, letterhead, internet, or telephone or association directory listing, if it includes a statement or claim that is false, fraudulent, misleading or deceptive.
(5) In representing their educational qualifications, licensees shall list and claim only those earned degrees from institutions accredited by regional accreditation sources recognized by the United States Department of Education, from institutions recognized by states or provinces that license or certify the licensee, or from equivalent foreign institutions.
(6) A licensee shall correct, whenever possible, false, misleading, or inaccurate information and representations made by others concerning the licensee's qualifications, services or products.
(7) Licensees shall make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.
(8) Licensees may not represent themselves as providing specialized services unless they have the required education, training, or supervised experience.

Tennessee

Rules of the Tennessee Board of Social Worker Licensure
Chapter 1365-01
1365-01-.10 Standards of Conduct
(3) Unethical conduct shall include, but not be limited to, the following:
(a) Knowingly circulating untrue, fraudulent, misleading, or deceptive advertising;
(5) Advertising.
(a) Affirmative Duties: Licensees shall engage in the following conduct while advertising in the course of the practice of social work:
1. Make reasonable efforts to advance the welfare and best interests of the client;
2. Not discriminate against a client based on race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, mental or physical disability, political affiliation, or social or economic status;
3. Inform the client of the costs of the services before providing services;
4. Include the corporation, partnership or individual name, address, and telephone number of the licensees named in the advertisement;
5. Upon request, a licensee shall disclose any compensation or anything of value given to a representative of the press, radio, television, or any communication medium in anticipation of or in return for any advertisement that was not initiated by the licensee; and
6. The licensee partner or officer of a firm or entity shall remove all references in firm or individual advertisements to another licensee who has left the firm or entity within thirty (30) days of the licensee's departure.
(b) Prohibited Activities: Licensees shall not engage in the following forms of advertisement in the practice of social work:
1. Making claims that the services performed, personnel employed, or office equipment used are professionally superior to that which is ordinarily performed, employed, or used or that conveys the message that one (1) licensee is better than another when superiority of services, personnel, or equipment cannot be substantiated;
2. Making false or misleading claims about their degree;
3. Promoting professional services that the licensee knows or should know are beyond the licensee's scope of practice;
4. Using communication techniques that intimidate or exert undue pressure or undue influence over a client or prospective client;

5. Appealing to a client or prospective client's anxiety in an excessive or unfair manner;
6. Using unverifiable personal testimonials attesting to the quality or competency of the services provided by the licensee;
7. Utilizing statistical data or other information based on past performances to indicate the results of future services, creating an unjustified expectation about the results that the licensee can achieve;
8. Communicating personal identifiable facts, data, or information about a client without first obtaining the client's consent;
9. Misrepresenting a material fact. For the purposes of this rule, a "material fact" is any fact which an ordinary, reasonable, and prudent person would need to know or rely upon in order to make an informed decision;
10. Stating or implying that certain licensees provide certain services when such services are performed by another licensee;
11. Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a client in connection with the performance of professional services; and
12. Making false, deceptive, misleading, or fraudulent statements relative to fees.
(c) Responsibility for Advertising and Records.
1. The licensee who is named in the advertisement is responsible for the form and content of the advertisement.
2. The licensee who is a principal partner or officer of the firm or entity identified in the advertisement is jointly and severally responsible for the form and content of the advertisement.
3. Each licensee shall retain every advertisement communicated by the licensee through print, television, radio, web-based, social, or other equivalent media, or any other form of advertising, for two (2) years from the last date of the broadcast or publication and shall make the advertisements available for review upon the request of the Board office or its designee.
4. Each licensee shall also retain any and all information that would substantiate the truthfulness of any assertion, omission or representation of material fact contained in the advertisement.

Texas

Title 3 of the Texas Occupations Code, Chapter 505:

Sec. 505.360. PROFESSIONAL IDENTIFICATION.
(a) A license holder shall use an identification provided by this section:
(1) in the professional use of the license holder's name; and
(2) in connection with any sign, directory, contract, document, pamphlet, stationery, advertisement, signature, or other means of written professional identification.
(b) A licensed master social worker shall use the identification "licensed master social worker" or the initials "LMSW."
(c) A licensed baccalaureate social worker shall use the identification "licensed baccalaureate social worker" or the initials "LBSW."
(e) A licensed clinical social worker shall use the identification "licensed clinical social worker" or the initials "LCSW."

Sec. 505.502. PROHIBITED CONDUCT BY BUSINESS OR PROFESSIONAL ENTITY.
(a) Except as provided by Subsection (b), a business or professional entity may not:
(1) represent itself or another to the public as being engaged in the practice of social work or as offering social work services under an assumed, trade, business, professional, partnership, or corporate name or

title;
(2) directly or indirectly use or cause to be used the term "social work," "social work services," "social work, inc.," "social workers," "licensed social workers," "licensed baccalaureate social workers," "licensed master social workers," "licensed clinical social workers," "LMSW," "LSW," "LBSW," or "LCSW," or any combination, abbreviation, or variation of those terms; or
(3) directly or indirectly use or cause to be used a term listed in Subdivision (2) in combination with any other word, letter, initial, sign, legend, or symbol on, in, or directly or indirectly as a part of:
(A) any sign, directory, contract, pamphlet, stationery, advertisement, or other document;
(B) a signature; or
(C) a trade, assumed, corporate, or other business or professional name.
(b) A business or professional entity may engage in conduct described by Subsection (a) if:
(1) the entity is actively engaged in the practice of social work; and
(2) the social work services that constitute the entity's practice are:
(A) personally performed by a social worker who is practicing in accordance with this chapter; or
(B) performed under the supervision of a licensed baccalaureate social worker, licensed master social worker, or licensed clinical social worker.

Title 22 of the Texas Administrative Code

§882.31 Advertising Restrictions
Licensees may not authorize, use, or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or what they omit concerning their own training, experience, supervision status, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.

§781.316 Advertising and Announcements
(a) Social workers' advertisements and announcements shall not contain deceptive, inaccurate, incomplete, out-of-date, or out-of-context information about services or competence. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, website entries, email, cell phone communications, social media communications, and billing statements.
(b) The Council imposes no restrictions on the advertising medium a social worker uses, including personal appearances, use of personal voice, size or duration of the advertisement or use of a trade name.
(c) All advertisements or announcements of a licensee's professional services, including website pages, social media communications, or telephone directory listings, shall clearly state the social worker's licensure designation and any specialty recognition, if any.
(d) A social worker shall not announce or advertise any information or reference to the social worker's certification in a field outside of social work that is deliberately intended to mislead the public.
(e) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

Policies and Guidelines, posted on Texas SW Board's Forms and Publications webpage:

- SW Guidelines for using Social Media
- SW Guidelines for Electronic Practice