

# Outpatient Facility Coding Alert

## Avoid False Advertising and Comply With FTC Guidelines

**When it comes to patient testimonials, honesty is always the best policy.**

Any advertising you do must comply with Federal Trade Commission (FTC) guidelines, which aim to prevent "unfair methods of competition in or affecting commerce." The FTC's guidelines aren't federal regulations, so there are no civil penalties involved. But you could be investigated for false or deceptive advertising practices. That could lead to attorney's fees, court costs, and compensation for those affected by false advertising.

### Be Careful What You Promise

A big draw for patients to come to your center is your track record of clinical results and cost savings. Highlighting those features in your marketing can work wonders, but watch out because you could be accused of misrepresentation. If not every patient will see the same results or achieve the same cost savings, don't say so in your marketing. Likewise, avoid:

- Making scientific claims unsupported by reliable data
- Representing superior skill when not supported by data (for example, don't say you have "the best" surgeons.)
- Misrepresenting fees or charges
- Claims of being a specialist if you are not actually certified in a specialty.

**Tip:** Be sure to check your state-specific laws. For example, in some states you must disclose if an image in a photo is a stock photo and not a real patient.

### Testimonials Must Meet FTC's Endorsement Guidelines

Patient testimonials are an excellent marketing tool because patients tend to trust other patients. According to the FTC, patient testimonials are considered endorsements - "an advertising message that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser."

Here are some basic guidelines to make sure your use of testimonials passes the FTC test:

- The testimonial must be real. Whoever is giving the testimonial must have actually experienced the product or service.
- The testimonial must be "truthful and not misleading," reflecting the honest opinions, findings, beliefs, or experience of the patient.
- The testimonial should be reflective of a typical patient experience. If it is not, you must "clearly and conspicuously disclose the generally expected experience of similar patients." You may no longer simply use the disclaimer "results were not typical."