

## **STANDARDS OF PROFESSIONALISM** **ADVERTISING BY ORTHOPAEDIC SURGEONS**

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At the core of the patient-physician relationship is a sense of trust. A patient trusts that the physician is knowledgeable and provides appropriate representations of his or her abilities. An orthopaedic surgeon who misrepresents his or her abilities or advertises musculoskeletal services in a false or misleading fashion damages the patient-physician relationship of trust. In addition, the orthopaedic surgeon who misleads through advertising may prevent a patient from making informed decisions about important health care matters.

For purposes of these Standards of Professionalism, advertising to the public includes, but is not limited to, information appearing on behalf of an orthopaedic surgeon and/or his or her professional entity (e.g., partnership, limited liability partnership or corporation) on the Internet or e-mails and in phonebooks, magazines, newspapers, direct mail, flyers, billboards, video presentations, and directories available to the public. In addition, advertising includes printed material typically used in the practice setting: letterhead, mailing envelopes, business cards, referral forms, office forms, appointment cards, brochures, pamphlets, office mailings, and signage inside or outside of the office. Advertising includes radio and television advertisements, including interviews, and telephone voice messages. Advertising includes any activity in which an orthopaedic surgeon pays in any way, including providing services in exchange for advertising, to communicate with the public.

Advertising of services, as well as competition between and among orthopaedic surgeons and other health care practitioners, is ethical and acceptable. It is the obligation of the orthopaedic surgeon to present a fair and honest representation of services and the goals, alternatives, expectations and risks associated with these services. In advertising as in all communications with patients and the public, orthopaedic surgeons have an ethical obligation to present themselves and the services they provide to patients in a clear and accurate manner. This principle of ethical conduct, when it is applied to advertising, is buttressed by its enforcement in law.

The U.S. Federal Trade Commission also has rules governing physician advertising. It is the responsibility of AAOS Fellows and Members to be familiar with and comply with these regulations as well as applicable State and local laws. Regulations make advertisements that are false or misleading illegal and subject to prosecution. Parties are encouraged that before filing a complaint with AAOS they attempt to resolve their disputes through other alternatives including state or federal resources.

The Standards of Professionalism draw from the aspirational *Code of Medical Ethics and Professionalism for Orthopaedic Surgeons* that appears in bold italics. The statements that follow the **aspirational Code** establish the baseline standard of acceptable conduct for orthopaedic surgeons who advertise their services. Violations of these **mandatory** standards

may serve as grounds for a formal complaint to and action by the AAOS as outlined in the AAOS Bylaws Article VIII.

These Standards of Professionalism apply to all AAOS Fellows and Members and all forms of advertising. Only an AAOS Fellow or Member may file a complaint of an alleged violation of these Standards of Professionalism regarding another AAOS Fellow or Member.

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**Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, I. D.:**

*When obtaining informed consent for treatment, the orthopaedic surgeon is obligated to present to the patient or to the person responsible for the patient, in understandable terms, pertinent medical facts and recommendations consistent with good medical practice. Such information should include alternative modes of treatment, the objectives, risks and possible complications of such treatment, and the complications and consequences of no treatment.*

Mandatory Standards:

1. An orthopaedic surgeon shall not advertise information in a manner that misleads patients to believe that a diagnosis can be made without consultation or that one method of treatment is suitable for all patients. Advertising shall not be false, misleading, or lead patients to believe that any given procedure is without risk.
2. An orthopaedic surgeon shall preserve and maintain the integrity of the profession by not advertising false or misleading statements to a patient or the person responsible for the patient.

**Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, II. A.:**

*The orthopaedic surgeon should maintain a reputation for truth and honesty. In all professional conduct, the orthopaedic surgeon is expected to provide competent and compassionate patient care, exercise appropriate respect for other health care professionals, and maintain the patient's best interests as paramount.*

Mandatory Standards:

3. An orthopaedic surgeon shall not, when advertising his or her services to the public, make false or misleading representations of his or her ability to provide medical treatment.
4. An orthopaedic surgeon shall not use false or misleading photographs or other images in advertising.
5. An orthopaedic surgeon shall not use photographs, images, endorsements, and/or statements in a false or misleading manner that communicate a degree of relief, safety, effectiveness, or benefits from orthopaedic care that are not representative of results attained by that orthopaedic surgeon..

6. An orthopaedic surgeon shall prevent false or misleading advertising by approving all advertisements regarding his or her practice before dissemination. An orthopaedic surgeon shall be held responsible for any violations of this SOP incurred by a public relations, advertising, or similar firm which he or she retains.
7. An orthopaedic surgeon shall make a reasonable effort to ensure that statements made by an academic institution, hospital or private entity on his or her behalf are not false or misleading.

**Aspirational: AAOS Code of Medical Ethics and Professionalism for Orthopaedic Surgeons, VI.A.:**

*The orthopaedic surgeon should not publicize himself or herself through any medium or form of public communication in an untruthful, misleading, or deceptive manner. Competition between and among surgeons and other health care practitioners is ethical and acceptable.”*

**Mandatory Standards:**

8. An orthopaedic surgeon shall abide by all state and federal laws and regulations related to the advertising of degrees and credentials, not advertising them in a false or misleading manner.
9. An orthopaedic surgeon, when advertising his or her services to the public, shall not advertise false or misleading certification levels.
10. An orthopaedic surgeon, when advertising his or her services to the public, shall not make false or misleading claims or personal representations, including volume of procedures performed and the nature and level of academic appointments and affiliations.
11. An orthopaedic surgeon, when advertising, shall not misrepresent or falsely state his or her role in the development or study of a particular surgical procedure.