

# Legal and Creative Marketing: Proven Successes

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**Presented by:**

**W. Kenneth Davis, Jr.**

Partner

Katten Muchin Rosenman LLP

**Peggy Martin**

Marketing Communication Manager  
Adventist Health





## Agenda

- Radiology marketing overview.
- Overview of current legal requirements for physician and patient marketing.
- Presentation of creative marketing ideas – some legal, some need “adjusting.”
- Q & A.



## **Common Physician Marketing Strategies/Tactics**

- Person-to-person marketing.
- Gifts and “leave behinds.”
- Entertainment.
- Education.
- Research, publications and presentations.
- Advertisements.
- Free/discounted diagnostic imaging services.
- Quality and service.



## Person-to-Person Marketing

- Deployment of professional marketing staff.
  - Convey the value proposition.
  - Apprise about new technologies/new uses for existing technologies.
  - Communicate your qualifications, especially ones that are unique.
  - Uncover service issues and resolution.



**Question 1:**  
**Do You Have a Dedicated Radiology  
Marketing Staff Member?**

1. Yes
2. No



## **Marketing Strategies/Tactics: Person-to-Person Marketing (cont.)**

- Demonstrate:
  - The available images and their utility.
  - Picture, archiving and communication system ("PACS").
  - Referral and report process.
- Leave behind clinical information, article reprints, brochures, scheduling order forms, pens, etc.
- Radiologist contact with referring physicians and patients.



## Direct to Patient Marketing

- Traditional Advertising.
  - Print.
  - Radio.
  - Billboards.
  - Direct Mail.
  - Websites.
- Social Media.
  - Future of healthcare marketing.
  - Building communities.
  - Shows more about caring.
  - Inform and educate.

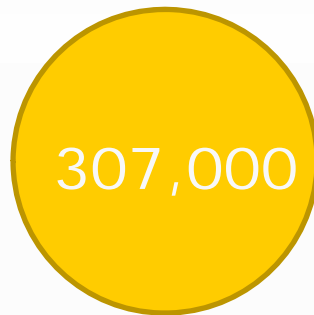




## One Market Picture

*Sacramento, California*

Sacramento Bee



2008



2012

Facebook



2012





## **Social Media Strategy – 5 C's**

1. Community - Target Audience.
2. Content – Engaging.
3. Compliment – Share Others Content.
4. Conversation – Actual Engagement.
5. Connection – To Community.



## **Types of Social Media**

- Facebook.
- Twitter.
- Pinterest.
- LinkedIn.
- Health Grades/Yelp.
- Doximity.

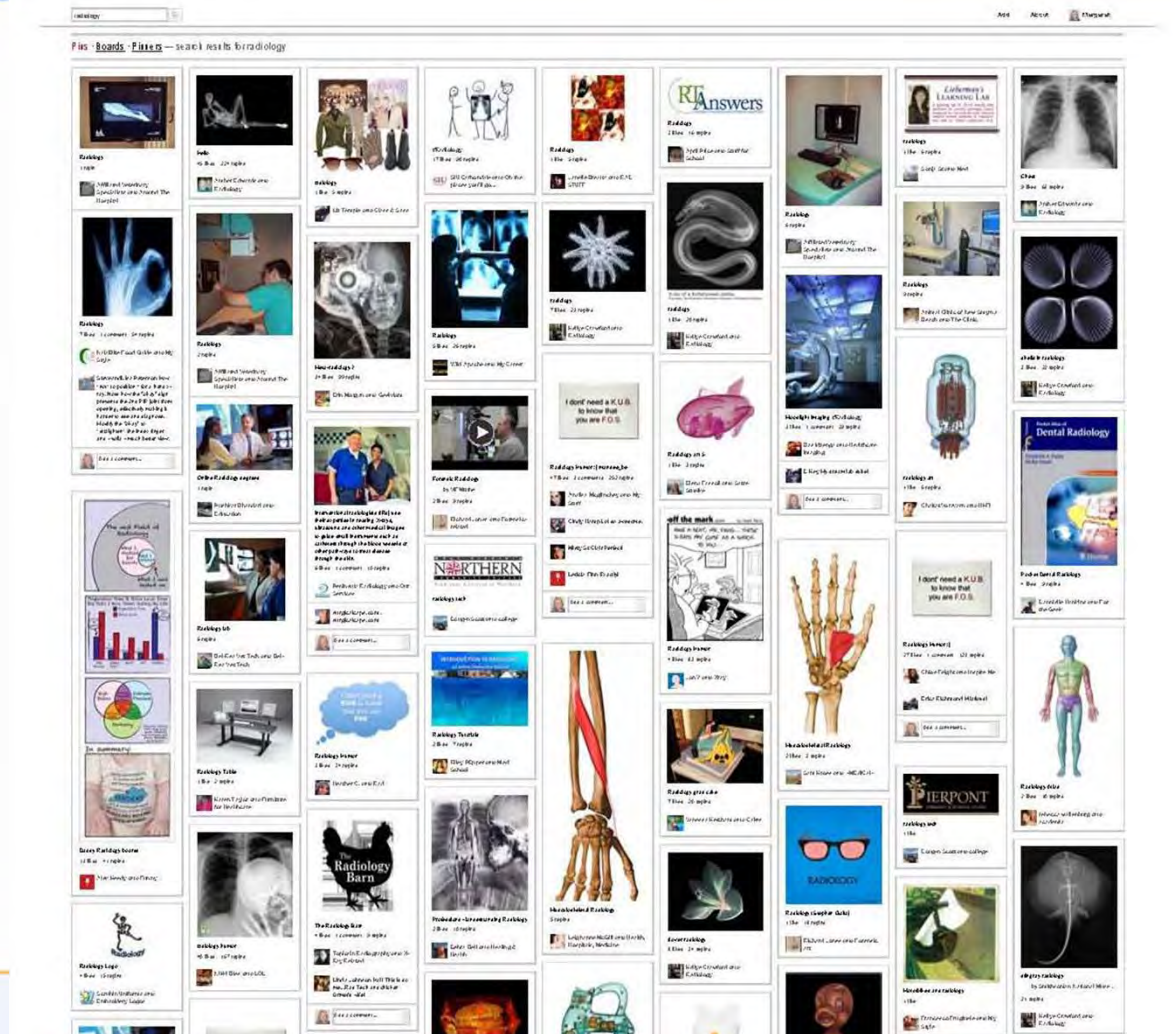


**Question 2:**  
**What Type of Social Media Does  
Your Group/Practice Participate In?**

1. Facebook Only
2. Facebook and Twitter
3. Facebook, Twitter, LinkedIn
4. Facebook, Twitter, LinkedIn, Pinterest
5. Personally Use Social Media Only
6. I Do Not Participate in Any Social Media



# Pinterest – Search Word: Radiology





## **Marketing Strategies/Tactics: Entertainment**

- “Night at the game” for physicians and their staff.
- Physician(s) entertainment of referring physician(s).
- Lunch for the staff at physicians’ offices.



## **Marketing Strategies/Tactics: Education**

- Programs on new technology/new uses for existing technology.
- Programs on ordering the right procedure.
- Continuing medical education ("CME").
- Tumor boards at the hospital.
- Focus groups.
- Patient education and outreach.





## Minimizing Risks

- Quality care for patients.
- For professional component:
  - Read the films accurately.
  - Minimize equivocation.
  - Turnaround reports in a timely fashion.
  - Call back quickly, if not immediately, for positive cases.
  - Sub-specialize.
- For technical component:
  - Render high quality images.
  - Location, clean and attractive.
  - Think like a hotel.





## **Free/Discounted Services**

- Professional courtesy.
- Free calcium screening or screening mammograms for non-Medicare beneficiaries.



## Today's Legal Discussion

- The laws:
  - Federal Anti-Kickback Statute.
  - Guidance from pharmaceutical industry.
  - Stark Law.
    - Limited repayment mechanism.
    - Period of disallowance.
  - Antitrust.
  - HIPAA.
  - State laws.
  - Miscellaneous.
  - IDTF standards.



## **Today's Legal Discussion** (cont'd)

- What's generally permissible?
- What's generally impermissible?
- What's in the "gray area" of legal compliance?
- Guiding principles gleaned from legal scrutiny of health care businesses.
- Questions and answers.



## What Will Not Be Discussed Today

- Provider marketing to payors.
- Provider marketing to hospitals.



## **Clinical/Operational Arrangements that Potentially Have Marketing Consequences**

- Provide computers and related infrastructure for accessing PACS.
- Assist with pre-certification.
- Enter into fair market value block time or per click lease or infrastructure arrangements.
- Maintain other legally compliant relationships with referring physicians.



## **Federal Anti-Kickback Statute Prohibited Activity**

- The Federal Anti-Kickback Statute is an intent-based statute which prohibits the offering, paying, soliciting or receiving of any remuneration in return for:
  - business for which payment may be made under a federal health care program or
  - inducing purchases, leases, orders or arranging for any good or service or item paid for by a federal health care program.



## **Federal Anti-Kickback Statute Prohibited Activity** (cont'd)

- “Remuneration” includes kickbacks, bribes and rebates, cash or in kind, direct or indirect, covert or overt.
- Only one purpose: the statute has been interpreted to cover any arrangement where only one purpose of the remuneration was to obtain money for the referral of services or to induce referrals.
- After the Patient Protection and Affordable Care Act, “[a] person need not have actual knowledge of [the statute] or specific intent to commit a violation of [the statute]” for there to have been a violation.





## Federal Anti-Kickback Statute Penalties

- The statute ascribes criminal liability to both sides of an impermissible “kickback” transaction.
- Violations of the statute are punishable by
  - \$25,000 fine per offense,
  - Imprisonment of up to five years,
  - Treble damages, and
  - Possible exclusion from all Federally-funded health care programs.



## **Federal Anti-Kickback Statute Statutory Exceptions**

- Discounts.
- Employees.



## **Federal Anti-Kickback Statute Safe Harbors**

- Personal services and management contracts.
- Referral services.
- Specialty services.
- ERx and EHR services



## **Federal Anti-Kickback Statute Significance of Safe Harbor**

- Satisfy Safe Harbor: If an arrangement meets one of the applicable safe harbors, it is fully protected from both criminal and civil liabilities imposed by the Anti-Kickback Statute.



## **Federal Anti-Kickback Statute Significance of Safe Harbor (cont'd)**

- Failure to Satisfy Safe Harbor: Failure to comply with safe harbor does not mean the conduct is per se illegal. Instead, the OIG will look at the facts and circumstances surrounding the arrangement to determine whether the arrangement was intended to generate referrals and poses a risk of program abuse.



## **Federal Anti-Kickback Statute Significance of Safe Harbor** (cont'd)

- Factors the OIG considers include:
  - identity of the party and party's relationship with its audience, such as whether the seller is billing a Federal program directly,
  - nature of the marketing (intrusiveness, potential for abuse, etc.),
  - the item or service being promoted (e.g., is the marketing for very specific items and has there been a history of overutilization), and
  - target audience (referral sources, Medicaid beneficiaries, the elderly, etc.).



## Gifts to Beneficiaries

- Be aware of Federal pronouncements on “gifts” and other benefits to Medicare beneficiaries.





## **Guidance from Pharmaceutical Industry**

- Effective January 2009, the Pharmaceutical Research and Manufacturers of America updated its PhRMA Code on Interactions with Healthcare Professionals.
- In April 2003, the OIG issued Compliance Program Guidance for Pharmaceutical Manufacturers.



## **Guidance from Pharmaceutical Industry** (cont'd)

- Although not perfectly on point, these items offer some insight into the marketing strategies and tactics that are considered OK and ones that present risks, and they highlight the importance of having policies and procedures and an effective compliance program.
  - It is noteworthy that some approaches that historically have been used by pharmaceutical manufacturers are similar to ones used by diagnostic imaging providers.



## **Guidance from Medical Technology Industry**

- Effective July 2009, the Advanced Medical Technology Association (“AdvaMed”) issued its Code of Ethics on Interactions with Health Care Professionals.



## **Guidance from Medical Technology Industry** (cont'd)

- Again, although not perfectly on point, the code is another good resource for examples of the types of steps that can be taken to avoid regulatory problems.



## Stark Law Prohibited Activity

- “If a physician (or an immediate family member of such physician) has a financial relationship with an entity . . . then the physician may not make a referral to the entity for the furnishing of designated health services (“DHS”) for which payment otherwise may be made” under Medicare (and to some extent Medicaid) **UNLESS AN EXCEPTION APPLIES.**



## **Stark Law Penalties**

- Denial of payment.
- Disgorgement.
- Fine of up to \$15,000 for each service a person “knows or should have known” was provided in violation of Stark.
- Fine of up to \$100,000 for attempting to circumvent Stark for each such circumvention or scheme.
- Exclusion from all federally-funded health care programs.



## **Stark Law Important Definitions**

- Financial Relationship: Defined to include any type of ownership or investment interest and any compensation arrangement, i.e., any arrangement involving any remuneration between a physician and an entity, directly or indirectly, overtly or covertly, in cash or in kind.





## **Stark Law Important Definitions** (cont'd)

- Remuneration: Defined to include any payment or other benefit made directly or indirectly, overtly or covertly, in cash or in kind, subject to certain limited exceptions.
  - Includes the provision of free fax or computer equipment, unless it can be demonstrated that the equipment is integral to and used exclusively for performing work for the entity that supplied the equipment (e.g., such as computer terminal provided by a lab for the sole purpose of ordering lab tests).
  - But see exceptions for ERx and EHR.



## **Stark Law Important Definitions** (cont'd)

- Designated Health Services: It includes in its definition "radiology and certain other imaging services."



## **Stark Law Important Definitions** (cont'd)

- Referral: Defined more broadly than merely recommending a vendor of DHS to a patient; instead, it is defined as “the request by a physician for the item or service” or the “establishment of a plan of care by a physician which includes the provision of the designated health service.”
  - Excluded from the term “referral” is a request by a radiologist for diagnostic radiology services, subject to certain requirements.



## **Stark Law Miscellaneous Exceptions**

- Payments to employees.
- Payments by a physician.
- Fair market value compensation.
- Professional courtesy.
- ERx and EHR.



## Stark Law Exception for Non-Monetary Compensation

- This exception applies to compensation from an entity in the form of items or services (not including cash or cash equivalents) that does not exceed an aggregate of \$300 per year if certain conditions are satisfied.
  - Amount is indexed to increase with the Consumer Price Index-Urban All Items (see [http://www.cms.gov/PhysicianSelfReferral/50CPI-U\\_Updates.asp#TopOfPage](http://www.cms.gov/PhysicianSelfReferral/50CPI-U_Updates.asp#TopOfPage) (the "CY \$\$\$ Limit").
  - ***The CY \$\$\$ Limit for calendar year 2012 is \$373.***
  - ***The CY \$\$\$ Limit for calendar year 2013 is \$380.***
- CMS has clarified that the dollar limitation is to be calculated on a calendar year basis.



## **Stark Law Exception for Non-Monetary Compensation** (cont'd)

- All of the following conditions must be satisfied:
  - the compensation is not determined in any manner that takes into account the volume or value of referrals or other business generated by the referring physician,
  - the compensation may not be solicited by the physician or the physician's practice (including employees and staff members), and
  - the compensation arrangement does not violate the anti-kickback statute.



**Question 3:**  
**Do You Currently Track Referring  
Physician Non-Monetary  
Compensation?**

1. Yes
2. No
3. I Am Unsure





## **Stark Law Exception for Non-Monetary Compensation (cont'd)**

- The exception now has a limited repayment mechanism to preserve compliance.
- Where an entity has inadvertently provided nonmonetary compensation to a physician in excess of the dollar limit for that year, such compensation is deemed to be within the limit if:
  - the value of the excess nonmonetary compensation is no more than 50 percent of the limit, and
  - the physician returns to the entity the excess nonmonetary compensation (or an amount equal to the value of the nonmonetary compensation) by the end of the calendar year in which the nonmonetary compensation was received or within 180 consecutive calendar days following the date the excess nonmonetary compensation was received by the physician, whichever is earlier.
- This repayment mechanism may be used by an entity only once every 3 years with respect to the same referring physician.



## Period of Disallowance

- Begins (in all cases) at the time the financial relationship fails to satisfy the requirements of an applicable exception.
- Ends no later than:
  - Where the noncompliance is unrelated to compensation, the date that the financial relationship satisfies all of the requirements of an applicable exception.
  - Where the noncompliance is due to the payment of excess compensation, the date on which all excess compensation is returned by the party that received it to the party that paid it and the financial relationship satisfies all of the requirements of an applicable exception.
  - Where the noncompliance is due to the payment of compensation that is of an amount insufficient to satisfy the requirements of an applicable exception, the date on which all additional required compensation is paid by the party that owes it to the party to which it is owed and the financial relationship satisfies all of the requirements of an applicable exception.



## Period of Disallowance (cont'd)

- Key considerations:
  - Was effective: October 1, 2008.
  - The rule creates something similar to a “safe harbor.”
  - But it only places an outside limit on the period of disallowance in the three specified circumstances.
  - And other than what was set forth above, CMS provided no clear guidelines for determining when the end of the period of disallowance has occurred.
    - Parties will have to continue to make the determination on a case-by-case basis.
    - It's a facts and circumstances analysis.
  - Likewise, the beginning and end of a financial relationship will not coincide necessarily with the beginning and end of a written agreement.
  - Finally, be aware that CMS provided no guidance on when noncompliance is never corrected or excess or required compensation is not repaid/paid.



## Burden of Proof

- Was effective: October 1, 2008 (but existing policy).
- Burden of proof (burden of persuasion) at each level of appeal is on the entity submitting the claim for payment.
  - Must establish that the service was not furnished pursuant to a prohibited referral.
- Burden of production on each issue at each level of appeal is initially on the claimant, but may shift to CMS or its contractors (and may shift back).
- Codification of existing policy.



## **Differences Between Anti-Kickback Statute and Stark Law**

- Violation of the Anti-Kickback Statute is a Federal felony whereas violation of the Stark Law has only civil ramifications.
- The Anti-Kickback Statute requires a mens rea (i.e., an “intent” element) whereas the Stark Law is a strict liability law.
- The Stark Law applies to financial relationships between physicians and providers of DHS whereas the reach of the Anti-Kickback Statute is broader.



## **Differences Between Anti-Kickback Statute and Stark Law** (cont'd)

- The Anti-Kickback Statute has “safe harbors”:
  - An arrangement is not necessarily illegal just because you cannot satisfy the elements of a safe harbor.
- The Stark Law has “exceptions”:
  - A physician cannot under any circumstances refer to a provider of designated health services unless the physician’s financial relationship with the provider fits within an exception.



## **Antitrust Exposure May Be Triggered by Advertising and Marketing Strategies**

- Agreements with competitors to limit advertising spending.
- Trade association advertising restraints.
- Discounts of drugs and other commodities.
- Marketing joint ventures.





## Potential Unfair Trade Practices

- False or misleading statements.
- Unsubstantiated claims.
- Competitor disparagement.



## HIPAA Issues

- HIPAA regulates a “covered entity’s” use and disclosure of an individual’s “protected health information.”
- Marketing is defined as communications about a product or service, a purpose of which is to encourage recipients of the communication to purchase or use the product or service.



## **HIPAA Issues** (cont'd)

- Exceptions: these communications not “marketing” for HIPAA purposes:
  - Describing a health-related product or service provided by the entity or included in benefit plan.
  - Made as part of treatment and to further treatment.
  - Part of managing treatment or providing alternatives.



## HIPAA Issues (cont'd)

- HiTECH narrowed the marketing exceptions.
- Under HiTECH, if the covered entity receives financial remuneration for making the communication, the communication is “marketing” (subject to certain limited exceptions).



## Authorization Requirements

- Under HIPAA, most marketing uses and disclosures (e.g., sale of a patient list to a marketing company) require patient authorization.
- No authorization needed for the following marketing activities:
  - Face-to-face encounter with individual.
  - Concerns products or services of nominal value.



## State Laws

- Most states have analogues to the Federal Anti-Kickback Statute and the Stark Law.
  - Such laws are usually “all payor” in scope.
  - May be broader or more narrow than Federal law.
  - The intent behind the arrangement is often important.
- State enforcement initiatives.
- Tort liability related to standard of care.



## State Laws (cont'd)

- Some state licensing laws include:
  - Prohibitions on claims of superiority (some states bar only unsubstantiated claims of superiority).
  - Prohibitions on use of testimonials.
  - Bans on false, misleading and deceptive advertising.
  - Prohibitions on guarantees of success.
  - Bars against advertising of fee comparisons.
  - Prohibitions on statements that play upon vanity or fears of the public.
  - Limitations on advertising content.





## **IDTF Performance Standard Prohibiting Direct Patient Solicitation**

- 42 CFR § 410.33(g)(7), which was effective January 1, 2007, requires that each IDTF must “[a]gree not to directly solicit patients, which include, but is not limited to, a prohibition on telephone, computer, or in-person contacts. The IDTF must accept only those patients referred for diagnostic testing by an attending physician, who is furnishing a consultation or treating a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary’s specific medical problem.”
- In its November 2006 response to comments, CMS stated that “we are not attempting to prohibit public advertising. . . . Clearly, an IDTF can use public advertisement, including advertising on television, radio, internet, direct mailing, billboards, or newspapers.”



## Miscellaneous Legal Issues

- Intellectual property rights.
  - Copyright laws.
- Tax exempt laws.
- Federal and state telemarketing laws.



## **What's Generally Permissible: A Working Assumption**

- All persons involved in marketing-related functions have at least a basic familiarity with the applicable laws.



## What's Generally Permissible?

- Radiologist contact with referring physicians and patients.
- Deployment of professional marketing staff.
  - Be careful if they are not employees of the provider, and if not, then be careful how they are compensated.



## What's Generally Permissible? (cont'd)

- Certain gifts and leave behinds.
  - Remember the CY \$\$\$ Limit under the Stark Law.
  - Be careful about any link between the relative value of the gift and the importance of the recipient as a referral source.
  - Also be careful about gifts “for the group” or “large” gifts, as well as “office parties” for the group.
    - Although the allocative rules are not perfectly clear, regulatory preamble language indicates that the full value of such gifts or office parties should be allocated to **EACH** physician in the group, thereby likely implicating the CY \$\$\$ Limit.



## **What's Generally Permissible?** (cont'd)

- Provider/staff education.
  - New technology/new uses for existing technology.
  - Ordering the right procedure.
  - Food can be offered, but safer to stay within the non-monetary compensation CY \$\$\$ Limit under the Stark Law.
  - Tumor boards.
- Patient education.
  - Be careful to comply with HIPAA.
  - If using telemarketing, be careful to comply with Federal and state telemarketing laws (and new IDTF standard).



## **What's Generally Permissible?** (cont'd)

- Sponsorship or co-sponsorship of CME.
  - Be careful to charge fair market value for the CME if, but for receiving the CME from you, the participant would have to pay someone to obtain the CME.
  - Be careful to structure relationships with co-sponsors in compliance with applicable laws.
- Focus groups.
  - Compensation can be paid to participants, but if referral sources are involved, be careful to fit within the fair market value compensation exception under the Stark Law.





## **What's Generally Permissible?** (cont'd)

- Research, publications and presentations.
- Advertisements.
  - Be careful to use reasonable, fact-based statements and avoid hyperbole.
  - Remember state laws and related ethics pronouncements.
- Quality and service.
  - Again, be careful to use reasonable, fact-based statements and avoid hyperbole.



## What's Generally Impermissible?

- Anything that involves an express or implied quid pro quo, i.e., we will give you this if you will refer to us.
- Paying compensation that looks like commission to a marketing firm or independent sales rep.



## **What's Generally Impermissible? (cont'd)**

- Any non-monetary compensation that exceeds the CY \$\$\$ Limit under the Stark Law.
  - Be particularly careful about entertainment that is not part of (and included in the cost of) CME or other education, e.g., the trip to Hawaii that one of the radiologists wants to purchase for a major referring physician.
- Any other exchanges of items or services for more or less than fair market value.



## **What's Generally Impermissible? (cont'd)**

- Efforts focused primarily on major referral sources.
- Efforts targeting exclusively Medicare beneficiaries.
- Multiple financial arrangements with referring physicians.
- "Sham deals."



## **What's Generally Impermissible?** (cont'd)

- Over-selling capabilities.
- Advertising that:
  - Is false or misleading.
  - Makes unsubstantiated claims.
  - Disparages competitors.
  - Guarantees success.
  - Has the potential effect, as a matter of tort law, of imposing a higher standard of care than is generally required under applicable caselaw.



## **What's In the "Gray Area" of Legal Compliance?**

- Radiologists' entertainment of, and gifts to, their friends who happen to also be referring physicians.
- Entertainment, such as lunch for the staff at a referring physician's practice, when provided as part of a strictly educational program.
- Efforts that, although not on their face focused primarily on major referral sources, have the effect of reaching out primarily to major referrers.



## What's In the "Gray Area" of Legal Compliance? (cont'd)

- Free/discounted services.
  - Although a Stark Law exception is available, be particularly careful about extending professional courtesy.
- Use of third-party marketing firms.
  - Focus on roles they play and how they get compensated.
  - Independent sales representatives are "suspect" regardless of how they are compensated.
- Clinical/operational arrangements that potentially have marketing consequences.





## Guiding Principles

- Be wary of all cash payments.
- Any whiff of a quid pro quo arrangement, whether express or implied, evidenced orally or in writing, is a big problem.
- Anything that appears to be based upon the volume or value of referrals or other business generated, or the importance of a referral source, is also a problem.



## Guiding Principles (cont'd)

- The legal risks grow almost exponentially with the size of any benefit conveyed.
- Remember the non-monetary compensation CY \$\$\$ Limit under the Stark Law, especially for entertainment.
  - But also remember the limited repayment mechanism to preserve compliance.
  - And the rules describing the period of disallowance.
- Ask whether a commercially reasonable fair market value exchange is occurring.



## Guiding Principles (cont'd)

- Risks are lower, and “optics” are better, if marketing to:
  - All patients, not just to Medicare beneficiaries.
  - All referring physicians, not just heavy referrers.
- Independent sales representatives are suspect, regardless of how they are compensated.



## Guiding Principles (cont'd)

- Use of third-party marketing firms can be OK, but be particularly careful about the role they play and how you pay them.
  - Health care is unlike most industries: you can't pay compensation that is or looks like commissions.
- On the other hand, you have much greater flexibility with how you pay your own employees.
  - Be sure they are the employees of the provider that benefits from their marketing efforts.



## Guiding Principles (cont'd)

- Education: GOOD!
- Education with too much entertainment: BAD!
- You can almost never get into trouble marketing based on clinical considerations, quality and/or service.
- Use reasonable, fact-based statements and avoid hyperbole.



## Guiding Principles (cont'd)

- Develop, implement, distribute, live by, enforce and continually revisit and refine written marketing policies and procedures and a corporate compliance program (with a designated Compliance Officer and Compliance Committee).
- Track all contacts made and benefits conveyed, if any, as part of your marketing and compliance programs.
  - Monitor Stark Law non-monetary compensation CY \$\$\$ Limit.
  - Remember the limited repayment mechanism now available under this exception to preserve compliance.
  - And the new rules describing the period of disallowance.



## Guiding Principles (cont'd)

- Conduct training and education.
- Develop effective lines of communication.
- Use audits and/or other risk evaluation techniques to monitor compliance, identify problem areas, and assist in the elimination of identified problems.
- Enforce standards through well-publicized disciplinary guidelines.





## **Significant Areas of Legal Liabilities for Social Media Strategies**

- Privacy.
- Reputation and “brand risk.”
- Confidentiality.
- Ethics.
- Practice of medicine.
- FTC guidelines on endorsements and testimonials.
- Professional Liability.
- Ownership of health data.
- Breach of contract.
- Intellectual property rights.
- Copyright.
- Employees and labor relations.
- Libel.
- Patient rights.



## **Corporate Social Media Policies: General Principles**

- Policies should address how the entity uses and/or markets through social media.
- Policies may also address how employees and physicians use social media.



## **Corporate Social Media Policies: General Principles (cont'd)**

- Be cognizant of all the legal issues mentioned above.
- Remember that social media is a dialogue, not a monologue.



## **Corporate Social Media Policies: General Principles (cont'd)**

- Issues to address:
  - Patient privacy.
  - Other legal issues.
  - Use of social media during work time.
    - For entity.
    - Personal?
    - Blurring?
  - Who can speak for entity?
  - Prohibition on anonymous/pseudonymous postings.
  - Confidentiality/trade secrets.
  - Harassment of fellow employees.



## Corporate Social Media Policies: Resources

- When developing a corporate social media policy, research what other businesses have developed, particularly health care service businesses.
- For a list of social media policies from various companies, go to:  
<http://socialmediagovernance.com/policies.php>
- For a good example of a policy developed for the health care world, see the Social Media Toolkit developed by Vanderbilt University Medical Center:  
<http://www.mc.vanderbilt.edu/root/vumc.php?site=socialmediatoolkit>



# Marketing Ideas

Presentation and Discussion



## **Facebook Promotion and Advertising**

- Easy on the budget.
- Target demographics.
- Reach the right audience.





# Social Media Promotion & Advertising

**Promoting your post increases the likelihood that people will:**

See your message in their news feed

Become aware of your business

Respond to a discount or sales promotion



This is how a promoted post will appear in news feed



See the impact right from your Page

Campaign Name: AH2 8/12  
Status: Completed  
Budget: \$25.00 Lifetime  
Duration (Pacific Time): 08/16/2012 2:43pm - 08/22/2012 2:00pm

#### Audience



Targeted?  
Reach?  
Social Reach?

#### Response

Clicks Actions

1.0

0.5

0.0

10/02 10/05 10/08 10/11 10/14 10/17 10/20 10/23

Custom 8/16/2012 - 8/22/2012 All Except Deleted Select rows to edit Full Report

1 result

Campaign Reach? 3,963  
Frequency? 4.5  
Social Reach? 2,658  
Actions? 38  
Clicks? 31  
CTR? 0.173%  
Spent? \$13.26

Name	Status	Reach	Freq.	Social Reach	Actions	Clicks	CTR	Bid	Price
AH 2	Completed	3,963	4.5	2,658	38	31	0.173%	\$0.74 CPC	\$0.43 CPC

#### Ad Preview

Edit

#### Targeting

Edit

#### Performance

Adventist Health  
Like us to see happenings in our health care network, health news & inspirational content.  
You like this.

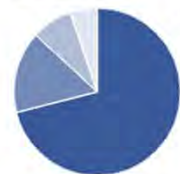
View on Site · Create a Similar Ad

#### This ad targets 17,840 users:

- who live in the United States
- who live in Hawaii, Oregon, Washington or California
- between the ages of 25 and 55 inclusive
- who like #Outdoors, #Physical fitness, #Nutrition or #Health
- who graduated from college
- who speak English (US)
- who are not already connected to Adventist Health
- whose friends are already connected to Adventist Health

Suggested Bid: \$0.19 - 0.24 USD

#### Actions



Actions?

38

Page Likes?  
Page Post Likes?  
Other Actions?  
Page Post Shares?

See full actions report

Close



## Facebook Scavenger Hunt

- Partner with local restaurants.
- Friend on Facebook.
- Find banner at restaurant.
- Post picture with banner.
- Win prizes.



**Question 4:**  
**Do You Feel a Facebook Scavenger Hunt With Prizes Legal?**

1. Yes
2. No



## Idea from Radiology Ltd. Tucson, Arizona

Screenshot of a Mozilla Firefox browser window displaying the Facebook page for "Screenings For Life".

**Browser Window:** Mozilla Firefox, Address bar: <https://www.facebook.com/ScreeningsForLife?ref=ts>

**Facebook Page:**

- Page Name:** Screenings For Life
- Category:** Health/Medical/Pharmaceuticals · Tucson, Arizona
- Location:** Tucson, AZ
- About:** Promoting breast wellness, education and awareness within our community.
- Website:** <http://www.screeningsforlife.com>, <http://twitter.com/screenings4life>
- Likes:** 415 like this, 73 talking about this
- Address:** 929 The Mountain

**Image:** A woman standing next to a large pink banner that reads "Have you had your mammogram? screenings for life. An Awareness Campaign Sponsor".



Browser window showing the Facebook page for Screenings For Life. The URL is <https://www.facebook.com/ScreeningsForLife?sk=wall>. The page features two posts circled in pink.

**Post 1:**

**Screenings For Life**  
With just a few days left in Breast Cancer Awareness Month, we really want to push hard to raise our donation amount for Making Strides Against Breast Cancer.

We can only do it with everyone's help. for every new person who like's the Screenings for Life Facebook page we will donate \$1.00. So pass the word along and get your friends and family clicking away. How much can you make us pay??

Like · Comment · Share · October 28 at 2:00pm ·

Anna Renio likes this.

1 share

**Post 2:**

**Screenings For Life**  
SCAVENGER HUNT CLUE #20

This is it folks - last clue before we pick a winner next week. You still have time to get qualified for the drawing so don't dally! Here ya go...

Who was there to kiss your boo-boos? Who made sure Dad was wearing pants when guests came over? And who was it that would make your favorite dinners? Well if this isn't one of your favorite meals it should be - their pizza is terrific! Head on over for a bite in a fun and casual environment, but don't forget your picture with the banner!

Like · Comment · Share · October 28 at 10:01am ·

2 people like this.

**Jennette Jett Sanchez** I'm working and can't get there!  
October 28 at 10:09am · Like

**Screenings For Life** It will still be there this evening, in case it helps...  
October 28 at 12:24pm · Like

Chat (2)



Scavenger Hunt - Mozilla Firefox

File Edit View History Bookmarks Tools Help

facebook.com https://www.facebook.com/ScreeningsForLife/?ref=ts#/photo.php?fbid=280164182006579&set=a.273790729310591.65829.138799836143015&type=1

Most Visited Getting Started Latest Headlines top-banner

Norton Cards & Logins

Screenings For Life: An Awareness ... Scavenger Hunt News and Events | ScreeningsForLif...

facebook

Have you had your mammogram?  
screeningsforlife.com

Like Comment

Screenings For Life  
The new location for week # 3 is ready and waiting. Anything here look familiar?  
Like · Comment · Share · October 17

Album: Scavenger Hunt · 8 of 15  
Shared with: Public

Download  
Remove This Photo

Chat (3)

Done

Scavenger Hunt - M... RSNA Powerpoint D...

1:24 PM





## Groupon Advertising

- Advertise for Sclerotherapy.
  - Low cost for procedure.
  - Groupon features and sells.
  - Groupon takes 50% of sales price.



**Question 5:**  
**Do You Feel Groupon Advertising  
For Sclerotherapy is Legal?**

1. Yes
2. No



## Idea from Via Radiology (Via Vascular) Seattle, Washington

Via Vascular Deal of the Day | Groupon Seattle - Windows Internet Explorer

http://www.groupon.com/deals/via-vascular/?utm\_campaign=via-vascular&utm\_medium=email&utm\_source=newsletter&c=seattle&utm\_content=seattle\_feed&user=SSCHREIBER@

File Edit View Favorites Tools Help

Get the Daily Deal for: Seattle Enter your email address Subscribe

**GROUPON** Seattle  
Groupon: Collective Buying Power

Featured Deal All Deals **NEW** How It Works Sign In Sign Up

Refer Friends, Get \$10

### \$129 for Consultation and Cosmetic Spider-Vein-Removal Session at Via Vascular (\$429 Value)

Via Vascular Seattle

**\$129 Buy!**

Value	Discount	You Save
\$429	70%	\$300

Buy it for a friend!

Time Left To Buy: 12:50:04

**SOLD OUT**

600 bought

Share: Like 4

**The Fine Print**  
Expires Jan 31, 2012  
Limit 1 per person, may buy 5 additional as gifts. Limit 1 per visit. By appointment only; subject to availability. Valid only for listed service. Non-transferable. Tax included.

**Highlights**

- Noninvasive treatment
- State-of-the-art technology
- Immediate results

**More Great Deals Nearby**

Wallingford  
\$8 for \$16 at Inner Space Skatepark

Prev Next

**Enjoy Groupon with Friends**  
Tell your friends about Groupon, plan activities and share recommendations.

Connect

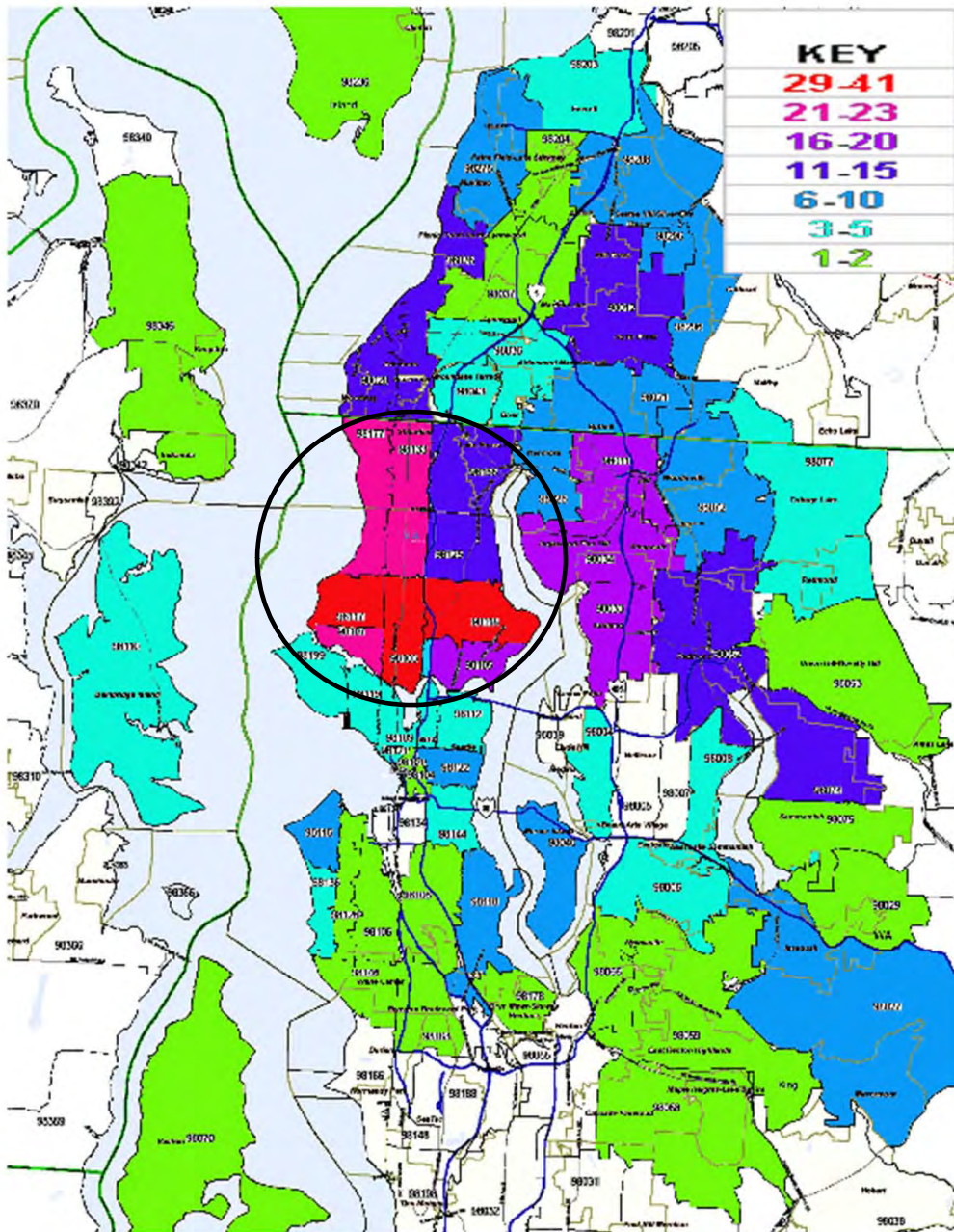
**Our Promise To You**

The GROUPON Promise

Editor - Photoshop ... Via Vascular Deal of ... Inbox - Microsoft O...

11:09 AM





## Targeted Follow up:

- Direct Mail Campaign.
- Val Pak.
- Newspaper ads.



## Targeting Women



### *Pamper Me Pink*

- Mammography Parties.
- Host/no-Host.





## Pamper Me Pink

- Co-hosted Mammography Parties.
  - Market to local companies and various groups.
  - Company/participants provide refreshments and give-aways.
  - Breast Center provides location/education/atmosphere.
- Hosted Mammography Parties.
  - Schedule during regular evening/weekend hours.
  - Light snacks.
  - Heavy marketing/press coverage during annual pink time.







## Building Awareness of P.E.T.

- P.E.T. of the month.
- First 50 to refer a P.E.T. Scan each month.
  - Deliver logo'd Beanie Baby to physician with collateral education in bag.







**Question 6:**  
**Do You Feel a P.E.T. of the Month**  
**to Referring Physicians is Legal?**

1. Yes
2. No



- P.E.T. ...
- ... 50 ... a P.E.T. Scan ... each  
... nth  
... Deliver logo ... Annie Baker ...  
... physician with ... eral ... cation  
... bag



## Physician Education

- CME Symposium.
  - 4 hour educational event.
  - Offer CME's.
  - Presentations by Radiologists and local physicians.
  - Provide food.

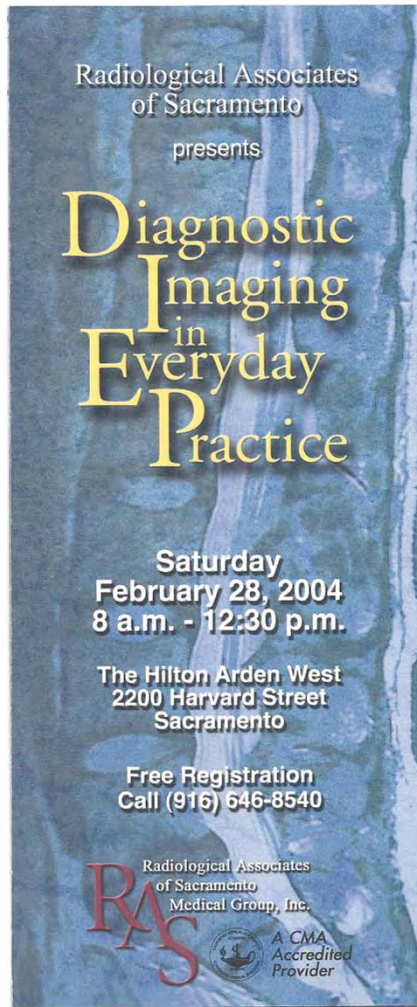


## CME Symposium

- Charge or no charge?
- How to value?
- Document in CRM value.



## From Radiological Associates of Sacramento Sacramento, California



- Practice CME accredited
- Increase of attendance
  - First symposium 78 Physicians and NPs
  - Annual event



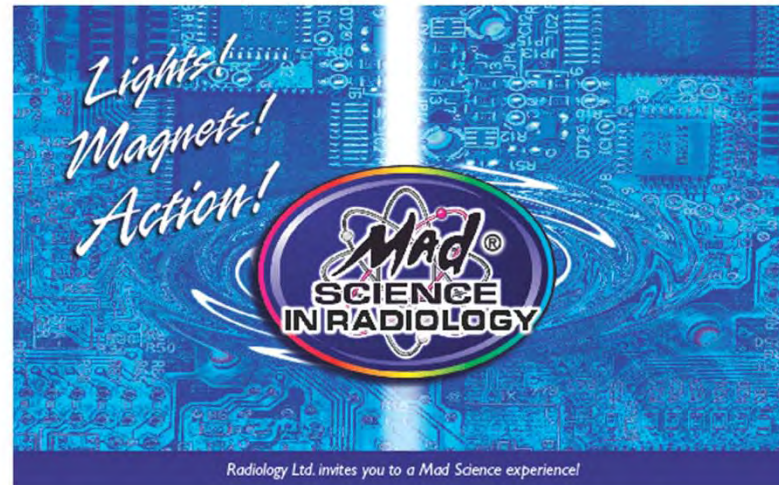
## Staff Education

- Staff Education.
  - Education lunches.
    - Hosted at their office.
    - Hosted at your office.
    - Hosted at local hotel/restaurant.
  - Host educational webinars.
    - Provide own material.
      - Radiologist/staff presentations.
      - Record for distribution.
  - Provide useful collateral.
    - Authorization Guides.
    - CPT Man.
    - Basic Radiology ordering guides.





## Idea from Radiology Ltd. Tucson, Arizona



*Radiology Ltd. invites you to a Mad Science experience!*

Come learn about the newest MRI technology and advancements in imaging procedures. Discuss concerns specific to your practice and patients.

These gatherings are for physicians and their staff to investigate new services, and to exchange information.

Demonstrations will include:

Magnets in Motion  
Light Concepts  
and

New Technologies Affecting Your Patients

To assure we accommodate Tucson's vast medical community, the Mad Science Fairs will be held in several convenient locations. Space is limited to 3 people per office per fair. Breakfast or lunch is included, as well as information on new services. We look forward to meeting you!

### Green Valley Science Fair

Wednesday, August 5, 2009  
12:00 - 1:30 PM

Los Pavo Reales Restaurant, 111 S. La Canada Dr.,  
Green Valley, 85614

### Westside Science Fair

Wednesday, August 12, 2009  
12:00 - 1:30 PM

Manning House, 450 W. Paseo Redondo, Tucson, AZ 85701

### Sierra Vista Science Fair

Thursday, August 13, 2009  
12:00 - 1:30 PM

Holiday Inn Express, 1902 S. Highway 92, Sierra Vista, AZ 85635

### Northwest Science Fair

Wednesday, August 19, 2009  
12:00 - 1:30 PM

Tohono Chul Park, 7366 N. Paseo del Norte, Tucson, AZ 85704

### Eastside Science Fair I

Thursday, August 20, 2009  
12:00 - 1:30 PM

Radisson Hotel, 6555 E. Speedway Blvd., Tucson, AZ 85710

### Eastside Science Fair II

Wednesday, August 26, 2009  
7:30 - 9:00 AM

Radisson Hotel, 6555 E. Speedway Blvd., Tucson, AZ 85710

Please RSVP by Friday, July 24, 2009  
to Professional Relations at 520-901-6775  
or [pr@radltd.com](mailto:pr@radltd.com)

There Is A Difference

733-SCAN (7226)  
[radltd.com](http://radltd.com)



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# Media Advertising

- Advertising.



***We all love using Radiology R Us  
They are the best in town!***



- Appointments within days not weeks
- Lowest cost diagnostic imaging
- Experienced & specialized staff
- Low dose radiation equipment

***Schedule your appointment today:  
1-800-555-1212***



***Radiology R Us***



# Advertising – Check your state medical board for guidelines

Texas Administrative Code [TITLE 22](#) EXAMINING BOARDS

## PHYSICIAN ADVERTISING **RULE §164.3 Misleading or Deceptive Advertising**

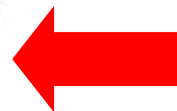
No physician shall disseminate or cause the dissemination of any advertisement that is in any way false, deceptive, or misleading. Any advertisement shall be deemed by the board to be false, deceptive, or misleading if it:

- **(1) contains material false claims or misrepresentations of material facts which cannot be substantiated;**
- **(2) contains material implied false claims or implied misrepresentations of material fact;**
- (3) omits material facts;
- (4) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;
- (5) advertises or assures a permanent cure for an incurable disease;
- **(6) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;**
- (7) advertises professional superiority or the performance of professional service in a superior manner if the advertising is not subject to verification;
- (8) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;
- **(9) includes photographs or other representations of models or actors without explicitly identifying them as models and not actual patients;**
- (10) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;
- (11) represents that health care insurance deductibles or copayments may be waived or are not applicable to health care services to be provided if the deductibles or copayments are required;
- (12) represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or copayments are required;
- (13) states that a service is free when it is not, or contains untruthful or deceptive claims regarding costs and fees. If other costs are frequently incurred when the advertised service is obtained then this should be disclosed. Offers of free service must indeed be free. To state that a service is free but a third party is billed is deceptive and subject to disciplinary action;
- (14) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient;
- (15) advertises or represents in the use of a professional name, a title or professional identification that is expressly or commonly reserved to or used by another profession or professional;
- **(16) claims that a physician has a unique or exclusive skill without substantiation of such claim;**
- (17) involves uninvited solicitation such as "drumming" patients or conduct considered an offense under Texas Occupations Code §102.001(a) relating to the solicitation of patients; or
- (18) fails to disclose the fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement, article, or infomercial, unless the nature, format or medium of such advertisement makes the fact of compensation apparent.

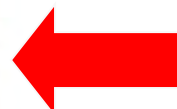
**Source Note:** The provisions of this §164.3 adopted to be effective May 21, 2000, 25 TexReg 4348; amended to be effective September 19, 2002, 27 TexReg 8769; amended to be effective May 12, 2008, 33 TexReg 3741



**We all love using *Radiology R Us*  
They are the best in town!**

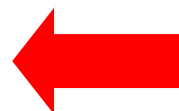


Can you prove  
you are the  
best?



Are all these  
people models  
or actual  
patients?

- Appointments within days not weeks like Radiology Associates
- Lowest cost diagnostic imaging
- Experienced & specialized staff
- The most accurate Radiologists in the State



False claims?  
Comparing  
yourself to  
competitor?

*Schedule your appointment today.  
1-800-555-1212*



*Radiology R Us*



<b>Event/ Sponsorship</b>	<b>Cost</b>	<b>Approx # Attendees</b> (name recognition)	<b>Visits to Booth</b> (pick up give away)	<b># Interested Info/ Education</b> (received info or asked ?)	<b>Cost per Educated</b>	<b>Notes</b>
Women in Business	\$550	1200	750	750	\$0.73	Fundraiser for Breast Cancer
Woman's Day Conference	\$950	4000	2500	1000	\$0.95	All day conference women paid \$95 to attend
Best of the Best Party	\$6500	3500	1000	100	\$65.00	\$5000 of fee direct to March of Dimes
Komen-Race for the Cure	\$10000	18,000	1500	50	\$200	Komen Foundation local fundraiser



## **Showing Appreciation and Building Relationships**

- Physician office staff appreciation.
  - BBQ's.
  - Morning Coffee/Open House.



**Question 7:**  
**Do You Feel Providing Appreciation**  
**Lunches to Referring and Staff are**  
**Legal?**

1. Yes
2. No



Lunch time BBQ for referring  
physicians, their staff and our  
staff at that site.

Usual turn out =

250 – 700 people!





## What is the cost?

- |                                    |         |
|------------------------------------|---------|
| • Table & Chair Rentals            | • \$350 |
| • Decorations                      | • \$100 |
| • Bulk food from Costco type store | • \$650 |
| • Condiments                       | • \$300 |

= \$1400

(average \$3.50 per person)





## Unique Open House

- Morning Coffee and Muffins.
  - Great for MOB.
  - Catch physicians and staff on way into office.



# Thank you!

**Questions.....**

**Contact Info:**

W. Kenneth Davis, Jr.  
phone (312) 902-5573  
[ken.davis@kattenlaw.com](mailto:ken.davis@kattenlaw.com)

Peggy Martin  
phone (916) 749-2882  
[martinmd@ah.org](mailto:martinmd@ah.org)

