Frequently Asked Questions

Regarding the State Bar Advertising Review Department’s Implementation of S.B. 1189, 86th Legislature

**Which advertisements are covered by Chapter 81, Subchapter J., Texas Government Code?**

- Based on clear legislative intent, the State Bar Advertising Review Department considers Section 81.151 to apply only to television advertisements for legal services regarding medications or medical devices. The following may not be included in such advertisements:
  
  - phrases that would suggest to a reasonable viewer that the advertisement is offering professional, medical, or government agency advice about medications or medical devices rather than legal services, including but not limited to:
    - “medical alert”
    - “health alert”
    - “drug alert”
    - “public service announcement”
  
  - logos of a federal or state governmental agency displayed in a manner that suggests to a reasonable viewer that the advertisement is presented by a state or federal government agency or by an entity approved or affiliated with a federal or state governmental entity
  
  - the term “recall” when referring to a medical product that has not been recalled by a government agency or through an agreement between a manufacturer and a government agency

**Which advertisements must include the visual and verbal statement, “Do not stop taking a prescription medication without first consulting a physician”?**

- Advertisements for legal services regarding medicine or medical devices that solicit clients who may allege an injury from a prescription drug approved by the United States Food and Drug Administration.

**What else does the subchapter require for television advertisements for legal services regarding medications or medical devices?**

- At the beginning of the advertisement, both verbally and visually:
  
  - the phrase, “This a paid advertisement for legal services”;
  
  - the identity of the sponsor of the advertisement; and
  
  - either:
    - the identity of the attorney or law firm primarily responsible for providing legal services to a person who responds to an advertisement; or
    - the manner in which a responding person’s case is referred to an attorney or law firm

**How must visual notices required by the subchapter appear?**

Visual notices must appear clearly, conspicuously and for a sufficient length of time for a viewer to see and read the statement.
What standard must a verbal statement meet under the subchapter?

Verbal statements must be audible, intelligible, and presented with equal prominence as the other parts of the advertisement.

Which advertisements must comply with the subchapter based on the effective date?

- Certain television advertisements presented to the public via television broadcast on or after September 1, 2019.
- Previous approvals by the Advertising Review Department are no longer applicable for advertisements for legal services regarding medicine or medical devices that are broadcast after September 1, 2019.