

QUEST PAPER

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How Has Advertising Changed the Professions of Doctors, Lawyers, and Colleges?

We traveled a lot when I was a child, not for long distances, mind you, but on frequent trips to see grandparents in Middlebury or to help on the farm in Bippus. Crowded with my sisters in the backseat of our 1949 Chevy coupe, our parents routinely had to settle squabbles over who was taking up too much space or who had initiated a game of copycat. Sometimes we were told to sing and sometimes we were sentenced to silence. Sometimes mother threatened to “come back there” which was always interesting to ponder. More frequently, however, we were challenged to count telephone poles or to look for Burma Shave signs: “A shave / That’s real / No cuts to heal / A soothing / Velvet after-feel / Burma Shave.”

Much has changed since those days. I now get to ride in the front seat (most of the time, at least), and Burma Shave signs have been replaced by digital billboards and online ads that seem to know what I’m thinking. But while the advertising medium has changed, one thing has remained constant: advertising both mirrors the society in which it is created and influences the society in which it is produced.

Think about that with the Burma Shave signs. Six little two-color signs, evenly and sequentially placed by the side of the road, offered some advice or a clever message that concluded with the product name. Burma Shave signs became popular in the 1920s as highway travel was expanding in the United States and were discontinued in the 1960s when interstate highways and higher speeds made it too difficult for drivers to read the signs. They began and faded as a product of their times while making a permanent impression on our culture. In fact, advertising as both a mirror of and influence on our culture continues to be a fact of the Information Age as people continue to focus on their personal needs and wants. Since *you deserve a break today*, let’s take a look at influences on advertising in recent years.

Advertising is an act of communication intended to persuade consumers to buy what they don’t know that they need or to persuade listeners and readers to take some action that they don’t know they should take. It is usually intended to be profitable (or, at least, beneficial) for the ad’s sponsor. In simple terms, advertising images and phrases interrupt what we are doing in an attempt to persuade us to do (or not do) something. This concept is nothing new. In fact, public billboards and advertisements reportedly go back to at least 6,000 years. Egyptians advertised on papyrus and wall poster advertisements can be seen today in the ruins of Pompeii. Ancient wall and rock painting advertisements can still be found parts of Asia, Africa, and South America.

As reading of language-based text became commonplace for general populations, ads in the form of printed handbills also became common. In 1836, the Parisian newspaper *La Presse* became the first newspaper to include paid advertising in its editions. With the turn of the

century, new forms of media expanded mass information transmission beyond print as first radios then televisions were introduced, thereby opening whole new markets for advertising. In the 1920s, manufacturers established radio stations in order to increase the sale of the new device. This pattern was repeated in the late 1940s and early 1950s as commercial television stations were established as television popularity grew. To keep their listeners and viewers attention, serial versions of radio and television shows were produced and broadcast on a daily or weekly schedule. Laced between and within those shows were ads designed to sell products to an increasingly affluent, consumer-based audience. Perhaps more critically, leisure time increased, giving people free time to devote to radio and television shows, many of which were identified with specific products. The advertising industry had found its niche.

Following the disruption of the World War II years, 1950s advertisements of women in kitchen aprons and men in grey flannel suits driving shiny Buicks suggested that life was back to normal while simultaneously building hope that upward economic and social mobility was on the way. Ads for gleaming Maytag washing machines were infused into Jack Bailey's "Queen for a Day" program. Ads for Lucky Strike cigarettes or the latest fashions advertised in *Harper's Bazaar* magazine depicted images of the country's strength and success. However, these ads also masked fragments of the national discontent that would erupt in the 1960s, a discontent that would place the advertising industry under siege. The world was not 99 44/100% pure.

The 1960s became a clash between the dream and the reality as institutions and practices held sacred were criticized as being self-serving and insensitive by a youthful and spirited generation of Americans. Critics cited Madison Avenue as a business instrument that worked against all that was good and true in life. Advertising was painted as being corrupt when the government exposed deceptive advertising practices and tampering on ad-sponsored game shows. Even more damaging, exposés by figures such as Vance Packard led to advertising bashing becoming a fashionable social discourse as critics argued that advertising led to materialism, support for planned obsolescence, wastefulness, and the consumption of unneeded products. Embedded within the turmoil of the 60s, the public's general suspicion of big business generated a strong backlash against the advertising industry, and the industry responded poorly by placing responsibility for conspicuous consumption on the consumers themselves, arguing that buyers had choices and were not required to purchase the products being marketed. Although the era of large, upscale advertising faded as newly defined consumer groups with diverse interests and values began to affect American society, advertising continued to be a product of its social context while continuing to frame our expectations, including those for the professions of law, medicine, and education.

Advertising and the Legal Profession

Prior to 1908, advertising in most professions, including the law, was rather common. However, the American Bar Association had become concerned that advertising so diminished the legal profession's image within the general community that it could threaten both the

reputation of its members and industry earnings. As a result, the ABA issued its *Canons of Professional Ethics*, which banned virtually all advertising by lawyers except for general information such as names and addresses. That position remained substantively unchanged until 1972, when two Arizona lawyers placed an advertisement in the *Arizona Republic*, a major newspaper. In response, the state bar association suspended the two, who quickly countered with a law suit challenging the ban on two grounds. First, the lawyers claimed that the ban violated the Sherman Anti-Trust Act and, second, they held that the ban violated their First Amendment right to freedom of expression. The individuality of the 1960s was now challenging the *Canons of Professional Ethics* that had been in place for more than 60 years. After the Arizona State Supreme Court rejected the lawyers' suit, the case moved into the federal court system, eventually reaching the Supreme Court of the United States. Writing the majority opinion, Chief Justice Warren Burger dismissed the anti-trust part of the suit but upheld the lawyers' contention that the ban on advertising constituted a restriction on freedom of expression. His opinion stated that the ban "... inhibited the free flow of information and kept the public in ignorance." However, it was held that state bar associations could "regulate" advertisements by lawyers, but no clear definition was provided regarding what such regulation might entail.

Although many argued that such advertisements would demean the profession, an advertising boom in the legal profession soon followed. At first, much of that advertising focused on attracting personal injury law suits, but over time the focus gradually expanded to give attention to specific groups of potential clients with experiences that might generate legal restoration. You might find it interesting to know that "mesothelioma" is currently the most frequently Googled term.

Today, it is estimated that perhaps 75% of lawyers advertise in some fashion. While telephone books continue to be a major source of legal advertising, television, city buses and bus huts commonly carry advertisement for legal services. On one hand, many who oppose advertising by lawyers contend that it is difficult to ensure that such advertising is truthful and accurate, especially when billboards post huge signs that read In Trouble? 1-800-CALL-KEN or, better yet, 1-800-NO-GUILT. Such advertising triggers debate about whether or not such advertisements provide a valuable service by expanding available legal services to individuals whose voices have often been excluded from mainstream society or if they characterize the legal profession as a common trade, the very concern expressed by the ABA more than a hundred years ago and supported today by many of its members.

Advertising and the Medical Profession

This concern can also be found in the medical profession. Many members of that field believe that "... self-conscious reflection on standards of conduct is one of the defining characteristics of a profession," with advertising falling outside the confines of action defined by that standard. It should not be surprising, then, that the American Medical Association banned advertising at least to 1847, when the AMA stated that "It is derogatory to the dignity of the

profession to resort to public advertisements or private cards or handbills ...” because such actions “... are the ordinary practices of empirics, and are highly reprehensible in a regular physician.” A 1903 statement by the AMA, designed to avoid problems with the Sherman Anti-Trust Act, said that it is incompatible with honorable standing in the profession to resort to advertising. A similar statement issued in 1912 held that the best advertisement was “... a well-merited reputation ...” developed as “... the outcome of character and trust.” In 1975, however, the Federal Trade Commission (FTC) accused the profession of restraint of trade and legally persuaded doctors to permit advertising, a move that raised two questions that are still being debated. First, with burgeoning healthcare costs, would doctoring become better and less expensive if incited by competition? Second, would advertising add hidden costs to the services provided?

It was significant that many members of the medical profession framed their aversion to advertising as an ethical objection, claiming that patients are not consumers in search of a commodity. Instead, doctors identified the patient’s unique vulnerability that comes when wanting relief from disability or disease. Patients in need of chronic or emergency services may not be in a position to reason and resist the typical appeals found through advertisements. Physicians recognized early on that medicine does not end with the distribution of a pill but requires the formation of a productive relationship buttressed by an ongoing trust.

Today most American physicians’ practices are represented in some form of advertising, but the form often appears as general advertising for medical institutions such as regional hospitals or specialized services such as cancer centers. On a recent drive from Bloomington to Fort Wayne, this researcher replaced counting telephone poles with counting billboards advertising medical services. There were a total of 41 billboards advertising legal, medical, or educational services, with 22 of them advertising medical services. So, as you *See the USA in your Chevrolet*, skip counting the telephone poles or even the cell phone towers. Instead, note the types of billboards for professions that line the roadways you travel.

A cultural phenomenon of the last twenty years has been the growing desire for self-determination associated with medical care. In part because of the availability of online information related to health issues and their remedies, and in part because of the growing complexity of health care providers and insurance coverage, people want to have more control over their own health care. This attitude has changed the face of medical advertising. A new dynamic in medical advertising that was introduced in the 1980s, direct-to-consumer (DTC) pharmaceutical advertising, now dominates the field. DTC is an effort made by a pharmaceutical company to promote its prescription products directly to patients. You know the ads. Whether the product is Humira, Cymbalta, or another strange name that has become familiar to all of us, the ad is intended for us to improve some element of our health because we have taken this drug. The United States and New Zealand are the only countries that allow direct-to-consumer pharmaceutical advertising that include product claims, and most other countries don’t allow direct-to-consumer advertising of pharmaceuticals at all.

Direct-to-consumer drug advertisements take several forms, providing varying amounts of information. The form we see most frequently is the “product claim ad” that names the pharmaceutical being marketed, describes its benefits, and either in very small type or in very fast speech, provides information on the limitations or side effects of the drug itself. This type of DTC ad has been regulated by the Food and Drug Administration since 1962, but specific guidelines for such advertising were not finalized until 1969. Since that time, the guidelines have continued to be loosened and FDA oversight weakened until direct-to-consumer advertising has become the most prominent type of health communication encountered by the public. The Nielson Company estimates that an average of 80 drug ads are shown on American television every hour of every day. The annual exposure we have to these ads as individuals equates to far more time than we actually spend with our primary care physicians.

In 1997, guidelines for direct-to-consumer pharmaceutical advertising were relaxed to include only the major risks associated with the drug. Between 1998 and 1999, the top 25 marketed drugs generated a \$7.2 billion increase in U.S. pharmaceutical spending. And investments in direct-to-consumer pharmaceutical ads grew from \$791 million in 1999 to \$4.8 billion in 2006. During that time period, for every dollar spent in DTC ads, the pharmaceutical industry realized \$4.20 in increased sales. In the first six months of 2013, the top ten pharmaceutical advertisers spent \$1.5 billion on this form of advertisement, at the rates of \$88.9 million on Cialis, \$77.8 million on Celebrex, and \$63.3 million on Cymbalta.

Periodic calls have been made for the FDA to severely limit or even ban direct-to-consumer advertisements for pharmaceutical products, but a series of court rulings have upheld current regulations under the First Amendment protection of Freedom of Speech. So how have they impacted the medical field? Do people think *They're GG-R-R-E-A-T?*

Two studies published in 2004, one by the Food and Drug Administration and the other by independent physicians, drew somewhat differing conclusions about how direct-to-consumer ads influence the doctor-patient relationship. The FDA surveyed 300 physicians, most of whom reported that their patients asked more thoughtful questions and were more aware of treatment options because of DTC. But survey results noted physician concerns that the ads did not provide a good balance of benefits and risks for the product being marketed. 78% of the doctors thought their patients understood the benefits, while only 40% thought their patients understood the risks equally well. Most physicians reported feeling some pressure to prescribe something when patients mentioned DTC ads but only 8% felt pressured to prescribe the specific name-brand drug.

A second study conducted around the same time by seven physicians associated with Grand Valley State University in Michigan found different opinions. Data from a mail survey to 523 Colorado physicians and 261 national physicians showed that most physicians viewed direct-to-consumer ads negatively, indicating that such advertisements rarely provided enough information on cost (98.7%), alternative treatment options (94.6%), or adverse effects (54.8%).

Fifty-six percent of the doctors surveyed believed the ads affected physician-patient relationship by lengthening clinical encounters; 81% believed the ads led patients to request specific medications; and 67% believed the ads changed patient expectations of physician's prescribing practices. A companion telephone survey of approximately 500 Colorado households indicated that only 29% of the public responded that direct-to-consumer advertising is a positive trend in health care. In contrast to assumptions by the FDA, just 10.5% of the households contacted indicated that direct-to-consumer ads motivated them to seek health care and only a quarter of the respondents (28.6%) indicated that advertisements make them feel better informed about medical problems.

Clearly, some will argue that advertisements of medical services and specific medical providers has changed the face of medicine so that it can be seen more as a contemporary business than as the service of yesteryear. However, an equally importance shift in advertising created through the direct-to consumer drug marketing that replaced pharmaceutical reps who marketed to physicians, has influenced the actual professional relationship between the physician and the patient.

Education and the Revolutionary Impact of the Internet

While changes in advertising laws, policies, and practice have changed the face of advertising, without a doubt the most significant influence on advertising is the advent of the internet. As electronic computers were developed in the 1950s, it was only logical to assume that at some point they could be connected to each other. As a student in Mrs. Shire's fifth grade class in the late 1950s, I remember reading a *Weekly Reader* article that described an extensive international communication system that would enable us to reach people all over the world. I still recall totally tuning her out as I imagined a massive grid of telephone lines crisscrossing the oceans and continents, wondering how tall the telephone poles would need to be in the middle of the Atlantic. What I didn't understand until researching this paper was that the article wasn't a prediction of things to come. It was a current events story because it was around that same time that the first electronic message using the ARPANet system was sent from an electronic lab at UCLA to connect to comparable equipment at Stanford University. More networks were developed in the late 1960s and early 1970s until an "inter-networking" system was standardized in 1982, and the "internet" was born. It is not the maze of wires and wooden structures that my childish mind envisioned; rather, the internet is a collection of sub-networks that are connected to an electronic backbone, but that function without a need for centralized control. It is a complex and seemingly limitless system that marries unfolding physical elements of this world with the imagination granted human beings from the first days of our existence. Today, the transmission of physical, electronic elements is taking the form of thought that was once believed to be the sole purview of the human mind. Estimated to carry 1% of the world's communication in 1993, it now carries nearly all telecommunicated information throughout the globe. Internet World Stats reports that in 1995 less than a half-percent of the world's population

were internet users. In 2013, the same organization reports 40% of the world's population as internet users.

In its brief two decades of commercial use, the internet has had a revolutionary impact on modern culture, including serving as the disruptive innovation that changed education, particularly the processes for attracting and retaining students. For many years, advertising in higher education focused on “spray and pray,” providing general product, price, place, and promotion information to whomever saw an ad. Whether it was spirit wear in the form of T-shirts or license plates, university promotions during broadcasts of athletic events, or the posters placed in the senior hall of the local high school, a consistent message was “here we are” and “going to college is a good thing for the right kind of student.” To be college material you needed to understand how to navigate the processes of college visitation, apply for financial aid, and select courses leading to your intended major. As few as ten years ago, such multi-channel advertising enabled colleges and universities to tract the effectiveness of their advertising methods on the targeted college-bound students. Was it the fancy brochure designed by an advertising agency that attracted them? Was it the smiling image on the poster or the call from the coach? Because such advertising practices were within control of the college or university and because the targeted population was readily identifiable, the return on investment could be determined and used in planning future advertising.

Now, because of the complex capabilities of the internet and associated technologies, educational advertising, like other forms of advertising, has shifted from information distribution to consumer-based marketing, tracking what we do on our electronic devices in order to personalize the information we are sent electronically. Colleges and universities use such information to build a recruiting connection with a potential student based on *who* the student is and the path *he/she* is on, creating a message that will appeal to that particular student most effectively. Imagine that we are a university that offers a nursing program for students who have already attained a bachelor's degree in another field. We identify the search terms that a potential student might use if he/she has an undergraduate degree, but hasn't found success in his/her field and is browsing the net. We use such terms as “BSN without nursing degree,” or “18 month nursing program,” or “part time nursing school.” When a potential student searches using these terms, our school appears. Let's imagine that our campus is in Indianapolis, so we will target anyone within a 40-mile radius of Indy because we think they will complete 18 months of courses commuting up to 40 miles. We also exclude anyone outside of Indiana, as such students are unlikely to relocate for the program in question. Armed with this information, the school can send personalized messages to the student as a means of saying “This is the place for you.” Recruitment is direct, systematic, and targeted based on who the school knows is likely to attend and experience success.

Recently, two conditions in our society provided the backdrop for changes to marketing higher education opportunities. First, exemplifying a message that had been incubating for years, the Great Recession made it clear that the national economy could no longer rely on general

work skills and dispositions; rather, it now requires high quality degrees and credentials in order to sustain the quality of life upon which most families have come to depend. Jobs upon which generations had depended have become obsolete, causing unemployment from which the nation is still recovering. Because so many adults needed to re-enter the job market, they needed to re-evaluate their education paths.

Second, during the Great Recession, post-secondary training opportunities expanded significantly. Schools offering those opportunities used advertising to attract and retain a much more diverse group of students than had attended in the past. No longer targeting individuals assumed to be college-bound, colleges and universities expanded their recruitment efforts to attract first-generation students; students of economic, racial, ethnic, and social diversity; and individuals with some college experience who were seeking additional education. New forms of advertising were needed to reach the young generation of digital natives, shifting to omni-channel marketing as a way to help prospective students move seamlessly among all the academic and operational elements of a college by connecting all the information critical to their educational decision making. Website landing pages now provide the details of an “accelerated MBA program” or an “onsite and online hybrid” or even deadlines for application. Ever changing pictures of events and live chats with current students or alumni compel a potential student to click on the ad and sign up for more information about a program of interest. And once a potential student has signed up for additional information, the university has what it needs to appeal to the specific interests of that person.

The days of the postcard addressed to “Dear Senior” are long gone because prospective students expect the college or university they attend to mirror the technology rich lives they lead. According to the Think Education Summit headed by Google in 2013, 80% of all students enrolled for their educational programs online; 78% of students who completed interest forms on education websites utilized search engines; and 83% of their searches began with non-branded terms. That means they used search terms such as 18-month nursing program rather than IPFW Nursing Program.

Because the Great Recession urged clarification of what constitutes a high quality degree or credential, an expanding variety of post-secondary experiences became available to welcome the increased number of students. Technical and proprietary higher education institutions opened everywhere and all but guaranteed good jobs for those completing training in medical careers or semi-professional areas. To distinguish themselves from traditional colleges and universities, technical schools advertised coursework that could be completed on weekends or online, thus introducing the idea that the college experience should be student centered rather than driven by the physical and cultural rigidity of brick and mortar campuses. Almost instantly, traditional colleges and universities responded by offering some measure of synchronous or asynchronous online learning to accommodate post-Millennials (sometimes called Generation Z) whose entire lives have been lived with ready access to the World Wide Web and online multiplayer gaming. Higher education policies and practices had to be changed to ensure oversight of people and

programs when you might never see the people and when the program may not include anything on paper. Long held assumptions about what should be learned and how it should be taught began to falter, and continue to stress institutions as they redefine their roles in today's new economy.

While all these societal and economic changes have been happening, the availability and use of social media has also increased. Introduced in 2004, in four short years Facebook had 100 million total users. Today it is estimated that 1.1 billion people use Facebook daily, and half a billion use Twitter. The influence of social media on education cannot be overstated because it serves as a rich source of information about people and their lifestyles, which then feeds the system that triggers the messaging in the ads.

Social media involves a real time component that has a special effect on colleges and universities because most of their intended customers are the digital natives who most frequently use that media. Since Facebook, Twitter, YouTube, and even Wikipedia are primary information access points for digital natives and because Millennials and post-Millennials listen to their peer groups, social media has become a primary source of information about every aspect of college, from academic to finances to social life and everything in between. A simple posting such as "Has anyone lived in a residence hall at IPFW? How was it?" is likely to garner immediate responses that describe the experience with greater detail and authenticity than marketing material can provide.

Add to that the fact that mobile devices record both sound and pictures, and an individual's opinions about an institution, event, or even a professor, information about the college or university can be distributed far and wide, and quickly. This information distribution is no longer under the control of the institution. Gone are the days when an Annual Report was the primary sources of accurate information about a school, or a press release was the vehicle for responding to an unexpected event that generated negative publicity. The live time postings and pictures on Facebook or Twitter tell the story far more quickly than an institution can because they can be done instantaneously and anonymously. Social media involves real time, feet on the ground information that can be a great help to promotes a college or university when the information is positive. It is a significant force in reputation management, a key influence on potential students who may be wanting more of a party school than the parents who are paying the bill.

I've heard it said that information is this generation's natural resource. There is more information more readily available than ever before. And, indeed, the drive for more information in more personalized forms has enabled new and perhaps questionable forms of advertising to change what happens inside the law office or the physician's examining room or my classroom.

It has been a long time since my sisters and I rode in the back seat of that old Chevy and we rarely squabble about anything. Times have changed and so has our world and our work in it.

My college president sister uses her institution's Facebook to communicate difficult messages in challenging times and my magnet school resource teacher sister builds support for her program using Instagram to share student successes with the parents who care deeply about them. The world is different and advertising has both driven and reflects many of those changes. Let's hope that the changes enable individuals and institutions to be their best, and *we'll leave the light on for you.*

Resources

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You deserve a break today McDonald's fast food

99 and 44/100% pure Ivory soap

They're GG- R- R-E- A- T Frosted Flakes

See the USA in your Chevrolet Chevrolet cars

We'll leave the light on for you Motel 6