



October 22, 2018

VIA EMAIL AND REGULAR MAIL

William Aseltyne, General Counsel
Yale New Haven Health System
c/o Smilow Cancer Hospital
789 Howard Ave., CB230
New Haven, CT 06510
[REDACTED]

Re: Deceptive Marketing by Smilow Cancer Hospital

Dear Mr. Aseltyne:

I am writing to you on behalf of Truth in Advertising, Inc. (“TINA.org”), a nonprofit consumer advocacy organization dedicated to protecting consumers from deceptive advertising.

We recently conducted a review of patient testimonials used to promote the 50 cancer treatment centers in the U.S. that spent the most money on advertising in 2017.¹ Our results revealed that, of the cancer centers still in business in 2018, 43 out of 48 – or 90% – deceptively used patient testimonials in their marketing materials by promoting anecdotal, atypical patient results without clearly and conspicuously disclosing what the generally expected results for a patient in a similar situation would be. *See* <https://www.truthinadvertising.org/cancer-centers-summary-action/>.

Specifically, TINA.org’s investigation found hundreds of testimonials featuring patients with cancer types that have a less than 50 percent five-year survival rate,² being used in direct-to-consumer marketing materials to advance the narrative, either explicitly or implicitly, that treatment at a specific cancer center will provide patients with a therapeutic advantage, allowing them to beat the odds and live beyond five years. Moreover, within this sampling of deceptive testimonials many also promote clinical trials (i.e., research endeavors with no guarantee of therapeutic benefit), as well as novel treatments, such as immunotherapy and/or experimental procedures, without clearly and conspicuously disclosing their limitations, risks and relative rarity.

Cancer patients and their families are uniquely susceptible to this type of deceptive marketing, which may generate false hope and persuade patients to leave their homes,

families, and other support systems in their communities in order to pursue the promise of better treatment or a cure that is not likely to exist.³

TINA.org found that Smilow Cancer Hospital is one of the cancer centers using this type of deceptive marketing tactic. A database containing a sampling of patient testimonials that are being deceptively used in Smilow Cancer Hospital's marketing can be found here: <https://www.truthinadvertising.org/smilow-cancer-hospital-database>.

We trust that Smilow Cancer Hospital will take immediate action to remediate or remove any and all deceptive testimonials from its marketing materials – including its website, social media pages, television, radio, internet, and print advertisements, and anywhere else such deceptive testimonials may be published or aired – as well as ensure that no future marketing materials promote atypical experiences without clearly and conspicuously disclosing what patients in similar situations should generally expect. If you have any questions or need further information, please do not hesitate to contact us.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.

¹ Based on data obtained from Kantar Media.

² TINA.org used the five-year survival statistics published on the NIH National Cancer Institute Surveillance, Epidemiology, and End Results Program website (<https://seer.cancer.gov/statfacts/>) in determining which testimonials portray atypical results and are thus deceptive. In cases where such statistics were not available, TINA.org looked to other sources, including Cancer.org and Cancer.net.

³ Lisa M. Schwartz and Steven Woloshin, *Cancer Center Advertising – Where Hope Meets Hype*, JAMA Intern Med., August 2016, Vol. 176, No. 8.