

Massachusetts Attorney General Prohibits Advertiser from Geofencing Medical Facilities

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The Massachusetts Attorney General recently entered into an Assurance of Discontinuance with Copley Advertising, LLC to resolve the Attorney General's allegations that Copley's geofencing practices violated Massachusetts' Consumer Protection Act. As part of the settlement, Copley agreed to refrain from geofencing the vicinity of any medical center located in Massachusetts for the purpose of inferring an individual's health status, medical condition or medical treatment.

The Attorney General investigated Copley's use of geofencing to target "abortion-minded women" with advertisements about pregnancy and adoption. The settlement indicates that the advertisements, including texts stating "You Have Choices" and "Pregnancy Help," were triggered once the women entered the vicinity of certain medical and women's reproductive health facilities. The advertisements would then continue to be sent to the women for 30 days. While Copley represented it had not set up any geofences around women's health clinics in Massachusetts for similar purposes, the Attorney General nevertheless indicated that such practices, if they were to occur in Massachusetts, would be an unfair or deceptive act in violation of the Consumer Protection Act.

TIP: Advertisers engaged in geofencing activities should be mindful of this settlement and the regulatory scrutiny that may come with leveraging medical facilities for geofencing purposes.

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Author

[Alessandra Swanson](#)

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Alessandra Swanson

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