FREE CHECKLIST | 2026 EDITION

The US & Canada Surgeon Marketing Compliance Checklist (2026)

For surgical practices in the United States and Canada

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Marketing for Surgeons by LxP Digital

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marketingforsurgeons.com

94 checks across 8 sections

How to use this checklist

Work through one section at a time with whoever runs your website, ads, reviews and email. Tick a box only when you can show proof: a signed agreement, a screenshot, a setting or a written policy.

Sections A to G cover US rules first, then Canadian rules where they differ. Section H is Canada only. Skip any item that truly doesn't apply to your practice, and write down why.

Rules change. We last checked every item and source in October 2026. Re-run this checklist at least once a year and before any big campaign or website launch.

> **Not legal advice.** This checklist is general information. We're marketers, not lawyers. Rules vary by state, province and specialty, so confirm anything that affects your practice with your healthcare attorney, privacy officer, medical board or College.

A Website and tracking (US)

If a pixel or form on your site sends patient information to Google, Meta or any vendor without the right agreement, that can be a HIPAA problem. The 2024 court ruling narrowed HHS's guidance for public pages, but logged-in pages, portals and anything patients type in still need care.

- [ ] List every pixel, tag and script on your site, including ones added by plugins, chat tools and past agencies.
- [ ] Keep Meta Pixel, Google Analytics and similar trackers off patient portals, logged-in pages and any step where patients enter health details.
- [ ] Treat public pages as lower risk, not zero risk: AHA v. Becerra (June 2024) vacated only HHS's guidance on public, unauthenticated pages.
- [ ] Never pass procedure names, conditions or form answers to Google, Meta or TikTok through pixels, conversion APIs or offline uploads.
- [ ] Google says it doesn't offer a BAA for Google Analytics, so keep all patient information out of it.
- [ ] Get a signed BAA from every vendor that handles patient information: forms, CRM, call tracking, chat, scheduling and email.
- [ ] If a vendor won't sign a BAA, don't route patient information through that tool.
- [ ] If you need conversion data for ads, use a setup that strips identifiers and health details first, and have it reviewed.
- [ ] Check state privacy laws such as California's CCPA and Washington's My Health My Data Act, which can require notices, consent or opt-outs.
- [ ] Show a cookie banner or opt-out where the law requires it, including for Canadian visitors (see Section H).
- [ ] Make sure your privacy policy matches the tools you actually run today.

Source: HHS OCR tracking technology guidance, www.hhs.gov/hipaa/for-professionals/privacy/guidance/hipaa-online-tracking/index.html; AHA on the AHA v. Becerra ruling, www.aha.org/news/headline/2024-08-29-hhs-will-not-appeal-aha-court-victory-online-tracking-case; Google: HIPAA and Google Analytics, support.google.com/analytics/answer/13297105

B Accessibility

If your practice takes Medicare, Medicaid or other HHS funding, your website and apps need to meet WCAG 2.1 AA under HHS's Section 504 rule. ADA lawsuits are a risk for everyone, and Ontario's AODA sets its own standard for larger organizations.

- [ ] If you receive HHS funds (including Medicare or Medicaid), plan to meet WCAG 2.1 AA under the Section 504 rule.
- [ ] Know your deadline: May 11, 2027 with 15 or more employees, May 10, 2028 with fewer (HHS extended both in May 2026).
- [ ] Include patient portals, online forms, PDFs, mobile apps and third-party booking tools, not just your main pages.
- [ ] Add meaningful alt text to images, including before-and-after galleries.
- [ ] Caption procedure videos and provide transcripts for audio.
- [ ] Test color contrast, keyboard navigation and visible focus on menus, forms and pop-ups.
- [ ] Label every form field and make error messages readable by screen readers.
- [ ] Don't rely on an overlay widget alone; fix the underlying code.
- [ ] Take ADA web lawsuits seriously: UsableNet counted over 4,000 digital accessibility lawsuits in 2024.
- [ ] Ontario: with 50 or more employees, your website must meet WCAG 2.0 AA under AODA (live captions and audio descriptions excepted).
- [ ] The Accessible Canada Act mainly covers federally regulated organizations; most clinics follow provincial rules, and WCAG 2.1 AA is a sensible target anywhere.
- [ ] Publish an accessibility statement with a simple way for patients to report a barrier.

Source: Feldesman on the HHS 504 deadline extension, www.feldesman.com/hhs-extends-compliance-deadlines-for-web-and-mobile-accessibility-requirements; DOJ ADA web guidance, www.ada.gov/resources/web-guidance; Ontario: how to make websites accessible, www.ontario.ca/page/how-make-websites-accessible; UsableNet 2024 report, blog.usablenet.com/2024-digital-accessibility-lawsuit-report-relased-insights-for-2025

C Advertising claims

Every claim in a surgical ad needs to be true, provable and not misleading in its overall impression. In the US that means FTC rules plus your state medical board; in Canada it means your provincial College plus the Competition Act.

- [ ] Keep evidence on file for every factual claim about results, recovery time, pain or safety (FTC substantiation).
- [ ] Don't promise or guarantee results; describe typical outcomes and mention risks honestly.
- [ ] Avoid "best," "top," "#1" or "leading" unless you can prove it and your board or College allows it.
- [ ] Say "board certified" only for a board your state recognizes, such as an ABMS member board, and name the board.
- [ ] Don't imply credentials, privileges, awards or affiliations the surgeon doesn't hold.
- [ ] Disclose paid or free arrangements with influencers, patients, staff or family who post about the practice.
- [ ] Put disclaimers right next to the claim, in readable type, not buried in a footer.
- [ ] Check your state medical board's advertising rules before launch; they differ from state to state.
- [ ] Canada: follow your provincial College's advertising standard, such as CPSO in Ontario or CPSBC in British Columbia.
- [ ] BC: CPSBC bars guarantees about results and comparing your services with other professionals.

- [ ] Remember the surgeon is responsible for ads an agency or other third party runs for them (CPSO).
- [ ] Canada: under the Competition Act, an ad's general impression can't mislead, and advertised prices must include mandatory fees.

Source: FTC advertising substantiation policy, www.ftc.gov/legal-library/browse/ftc-policy-statement-regarding-advertising-substantiation; FSMB state medical board directory, www.fsmb.org/contact-a-state-medical-board; CPSO Advertising policy, www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Advertising; CPSBC Advertising standard, www.cpsbc.ca/files/pdf/CPSBC-PS-Advertising-Communication.pdf; Competition Act, laws-lois.justice.gc.ca/eng/acts/C-34

D Google Ads and Meta ads

Surgical practices can advertise on Google and Meta, but not with the audience tools most businesses use. Google treats invasive medical procedures as a sensitive interest category, and Meta restricts health targeting and reviews body-focused creative closely.

- [ ] No remarketing lists, Customer Match or lookalike audiences for surgical services on Google; it's a sensitive interest category.
- [ ] Use keywords, location targeting and Google's own in-market and affinity audiences instead.
- [ ] Read Google's Healthcare and medicines policy before launch; speculative and experimental treatments are banned.
- [ ] Most surgery ads don't need Google certification or LegitScript; it's for things like online pharmacies, prescription telehealth (for example GLP-1) and addiction services.
- [ ] Never upload patient lists to Google or Meta.
- [ ] Make sure every ad claim is backed up on the landing page it points to.
- [ ] Meta: weight loss and weight gain ads must target people 18 and older.
- [ ] Meta: before-and-after creative still gets close review; avoid anything that attacks how someone looks.
- [ ] Meta: don't imply you know the viewer's health or body ("Unhappy with your stomach?").
- [ ] Meta: health-based audience targeting stays restricted, so target by location, age and broad interests.
- [ ] Check that pixel and conversion events don't send procedure names or form answers (see Section A).
- [ ] Re-check both platforms' health ad rules before each new campaign; they change often.

Source: Google personalized advertising policy, support.google.com/adspolicy/answer/16701855; Google Healthcare and medicines policy, support.google.com/adspolicy/answer/176031; Meta health and wellness ad standards, transparency.meta.com/policies/ad-standards/restricted-goods-services/health-wellness

E Reviews and testimonials

Ask every patient for a review the same way, never pay for one, and never confirm someone is a patient when you reply. In Ontario, patient testimonials can't appear in physician advertising at all.

- [ ] Ask every patient the same way; no review gating that steers only happy patients to Google.
- [ ] Never offer discounts, gifts or prize entries in exchange for reviews.
- [ ] No staff review quotas, and don't ask for reviews that mention a staff member's name (Google, 2026).
- [ ] Never write, buy or post fake reviews, including from staff or family (FTC rule in force since October 21, 2024).
- [ ] Don't hide or suppress negative reviews on your own website.
- [ ] Reply without confirming the person is a patient or mentioning any procedure, date or detail.

- [ ] Learn from Manasa Health Center: HHS OCR settled for $30,000 in 2023 after review replies disclosed patient information.
- [ ] Use a short reply template and move specifics offline: "Please call our office so we can help."
- [ ] Get a signed HIPAA authorization before using any patient's name, story, photo or quote in marketing.
- [ ] Ontario: CPSO bans patient testimonials in physician advertising, including your website and social media.
- [ ] Elsewhere in Canada, check your College's rules before quoting a patient anywhere.

Source: Google reviews policy, support.google.com/contributionpolicy/answer/7400114; FTC fake reviews rule, www.ftc.gov/news-events/news/press-releases/2024/08/federal-trade-commission-announces-final-rule-banning-fake-reviews-testimonials; HHS OCR Manasa Health Center settlement, www.hhs.gov/about/news/2023/06/05/hhs-office-civil-rights-reaches-agreement-health-care-provider-new-jersey-disclosed-phi-response-negative-online-reviews.html; HHS: HIPAA and marketing, www.hhs.gov/hipaa/for-professionals/privacy/guidance/marketing

F Before-and-after photos

Before-and-after photos need the patient's written consent, honest and typical results, and matching conditions in both shots. Canadian Colleges add their own rules on top.

- [ ] Get written consent for each use (website, social media, ads), separate from surgical consent.
- [ ] Let patients withdraw consent, and take their photos down promptly when they do.
- [ ] Use only real patients of the surgeon shown; never stock images or another practice's results.
- [ ] Show typical results, not just your best cases.
- [ ] Match lighting, angle, distance, pose and background in both photos.
- [ ] No retouching or filters; limit edits to cropping and covering identifying features.
- [ ] Add a disclaimer that results vary, and note the procedure and time since surgery.
- [ ] Hide faces, tattoos and other identifiers unless the consent covers them, and strip file metadata.
- [ ] Ontario: CPSO requires real patients, typical results, consistent conditions and a disclaimer.
- [ ] BC: CPSBC prohibits before-and-after photos without written patient consent it can verify.
- [ ] Expect Meta and Google to review before-and-after ads closely; keep full galleries on your own site.
- [ ] File each consent form with its photo so you can prove consent later.

Source: CPSO Advertising policy, www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Advertising; CPSBC Advertising standard, www.cpsbc.ca/files/pdf/CPSBC-PS-Advertising-Communication.pdf; HHS: HIPAA and marketing, www.hhs.gov/hipaa/for-professionals/privacy/guidance/marketing

G Email and text messages

Marketing texts in the US need prior written consent under the TCPA, and marketing email must follow CAN-SPAM. In Canada, CASL requires consent before almost any commercial email or text.

- [ ] US: get prior express written consent before sending marketing texts, and keep a record of it.
- [ ] Don't make marketing consent a condition of booking a consult.
- [ ] Send texts only between 8 a.m. and 9 p.m. in the patient's time zone; some states set narrower hours.
- [ ] Honor STOP and other reasonable opt-out requests fast, within 10 business days at most.
- [ ] CAN-SPAM: honest from line and subject, your postal address, and a working unsubscribe honored within 10 business days.
- [ ] Canada: under CASL, have express consent (or valid implied consent) before any commercial email or text.

- [ ] CASL: identify the practice, include contact details and an unsubscribe that works for 60 days and is processed within 10 business days.
- [ ] Keep CASL consent records: when, how and what each person agreed to.
- [ ] Keep health details out of subject lines, preview text and text messages.
- [ ] Use an email or SMS vendor that signs a BAA if messages include any patient information.
- [ ] Keep appointment reminders separate from promotional campaigns.
- [ ] Don't buy or rent email lists; they rarely carry valid consent.

Source: FCC rules, 47 CFR 64.1200, www.ecfr.gov/current/title-47/chapter-I/subchapter-B/part-64/subpart-L/section-64.1200; FTC CAN-SPAM guide, www.ftc.gov/business-guidance/resources/can-spam-act-compliance-guide-business; CRTC CASL FAQ, crtc.gc.ca/eng/com500/faq500.htm

H Privacy (Canada)

Canadian practices answer to PIPEDA or a provincial private-sector law, plus a provincial health privacy law such as PHIPA in Ontario. Quebec's Law 25 adds the strictest consent and cookie rules, and Quebec marketing must be available in French.

- [ ] Confirm which laws apply: PIPEDA for commercial activity, or Alberta's, BC's or Quebec's own private-sector law.
- [ ] Ontario: PHIPA governs personal health information held by custodians, including physicians.
- [ ] Check your own province's health privacy law, such as Alberta's Health Information Act.
- [ ] Collect only what you need on web forms; skip open "describe your condition" fields unless you need them.
- [ ] Explain in plain language how you'll use contact details for marketing, and get consent first.
- [ ] Report breaches to the Privacy Commissioner when there's a real risk of significant harm (PIPEDA).
- [ ] Quebec: name a person in charge of privacy (by default the highest-ranking person) and post their title and contact details on your site.
- [ ] Quebec: tracking that can identify, locate or profile someone must be off until the user turns it on, so non-essential cookies need opt-in.
- [ ] Quebec: report confidentiality incidents with a risk of serious injury, and keep an incident register.
- [ ] Quebec: assess privacy risks before sending personal information outside Quebec, including to US-based tools.
- [ ] Quebec: your website, social pages and ads must be available in French, with French predominant on ads and signs.
- [ ] Keep a vendor list showing where patient and lead data is stored, including US servers.

Source: OPC on PIPEDA, www.priv.gc.ca/en/privacy-topics/privacy-laws-in-canada/the-personal-information-protection-and-electronic-documents-act-pipeda; IPC Ontario (PHIPA), www.ipc.on.ca; Quebec privacy regulator (CAI), www.cai.gouv.qc.ca; Educaloi on Quebec language laws, educaloi.qc.ca/en/capsules/language-laws-and-doing-business-in-quebec

NEXT STEP

Want a second pair of eyes?

Request a free practice audit and we'll record a short video review of your website, ads, reviews and tracking setup, delivered in 2 business days. No sales call needed.

marketingforsurgeons.com/surgeon-marketing-audit