

# Digital Ambulance Chasers? Law Firms Send Ads To Patients' Phones Inside ERs

May 25, 2018 BOBBY ALLYN NPR.org

Patients sitting in emergency rooms, at chiropractors' offices and at pain clinics in the Philadelphia area may start noticing on their phones the kind of messages typically seen along highway billboards and public transit: personal injury law firms looking for business by casting mobile online ads at patients. The potentially creepy part? They're only getting fed the ad because somebody knows they are in an emergency room.

The technology behind the ads, known as geofencing has been deployed by retailers for years to offer coupons and special offers to customers as they shop. Bringing it into health care spaces, however, is raising alarm among privacy experts. "It's really, I think, the closest thing an attorney can do to putting a digital kiosk inside of an emergency room," says digital marketer Bill Kakis. Law firms and marketing companies from Tennessee to California are also testing out the technology in hospital settings. "Is everybody in an emergency room going to need an attorney? Absolutely not," Kakis says. "But people that are going to need a personal injury attorney are more than likely at some point going to end up in an emergency room."

The advertisers identify someone's location by grabbing what is known as "phone ID" from Wi-Fi, cell data or an app using GPS. Once someone crosses the digital fence the ads can show up for more than a month. To Kakis, this is just modern-day target marketing. In his pitch to potential clients, he calls the technology "totally legit." But Massachusetts' attorney general, Maura Healey, offers a different response. "Private medical information should not be exploited in this way," she says. "Especially when it's gathered secretly without a consumer's knowledge, without knowledge or consent."

Healey's office was the first in the country to go after geofencing technology catching people while they are seeking care. Prosecutors there reached a deal last year with a Massachusetts-based digital advertising firm that was sending advertisements from a Christian pregnancy counseling and adoption agency to people who entered Planned Parenthood clinics. When patients would go to the clinics, they'd also cross a digital fence and soon get advertisements such as "You have choices" and "Click here for pregnancy help." Healey's deal resulted in banishment of the digital firm from Massachusetts for "unfair and deceptive" practices.

Kakis did not want to reveal which personal injury law firms have signed on with his marketing firm. He will say, though, that the geotargeted campaigns in the area of health care are one of the fastest-growing parts of his business. Several personal injury law firms in Philadelphia contacted for comment never returned calls and emails seeking comments about advertising strategies.

In talking to people coming in and out of emergency rooms, one thing becomes clear fast: Some see these kind of targeted ads as preying on people when they are the most vulnerable.

Take Joe Finnegan, 40, of Northeast Philadelphia. He recently had an appointment at a hospital in Center City and says he wouldn't want that fact shared without his knowledge. Seeing law firm ads tied to his recent hospital visit, he says, would be enraging, since he had no idea he was crossing into the geotargeted zone. And he adds: "If they're tracking every move in that regard, what else are they watching?"