

## ARTICLE V

A. General Statement. Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect. "False or misleading in any material respect means communications shall be avoided which would:

1. Contain a material misrepresentation of fact.
2. Omit a fact necessary to make the statement considered as a whole not materially misleading.
3. Contain a representation or implication regarding the quality of dental services which would suggest unique or general superiority to other practitioners which is not susceptible to reasonable verification by the public.
4. Be intended or be likely to create an unjustified expectation about results the dentist can achieve.

B. The State Board of Dental Examiners may require a dentist to substantiate the truthfulness of any assertion or representation of material fact set forth in an advertisement. At the time an advertisement is placed, the dentist must possess and rely upon information which when produced, would substantiate the truthfulness of any assertion or representation of material fact set forth in such advertisement. The failure to possess and rely upon such information at the time the advertisement is placed shall be deemed professional misconduct. The failure to provide the factual substantiation to support a representation or assertion when requested by the State Board shall be deemed professional misconduct.

C. Advertising that references a fee or fees must clearly define the professional service being offered in the advertisements. Such advertised offers shall be presumed to include everything ordinarily required for such a service. No additional fees may be charged unless the advertisement includes the following disclaimer in the same size print as the list of services: "Additional fees may be incurred in individual cases." Additional fees cannot be charged for ordinarily required services.

D. All advertisements shall contain the name of the practitioner who placed the ad. If an approved fictitious name is used in any advertising, it must be accompanied by the name of the dentist under which the fictitious name was registered and approved by the Board.

E. The responsibility for the form and content of any advertisement offering services or good by a dentist shall be jointly and severally that of each professional who is a principal, partner, or officer of the firm or entity identified in the advertisement.

F. A video and/or audio tape of every advertisement communicated by electronic medial indicating the date and place of broadcast shall be retained by the dentist for a period of two (2) years and made available for review upon request by the Board or its designee.

G. A dentist shall be required to keep a copy of all printed advertisements for a period of two (2) years. All printed advertisements in the dentist's possession shall indicate the accurate date and place of publication and shall be made available for review upon request by the Board or its designee.

H. No advertisement shall imply that the dentist is a specialist unless the dentist is licensed by the Board in one of the A.D.A. recognized specialities. A general or family dentist may list services offered at his office in an advertisement, but it must be clear that his services are offered by a dentist who is a general or family dentist.

If one's services are referenced in the advertisement, the ad shall state either "general practice," or "general dentistry," or the American Dental Association recognized specialty that the practitioner practices immediately following the name and degree of the practitioner. The word "family" may be substituted for the word "general." (An example of an ad that would not be acceptable; "John Doe, D.D.S., Sedation Dentist." An example of an ad that would be acceptable: "John Doe, D.D.S., Family Dentistry, Sedation Services Available.")

## **PROPOSED REGULATION**

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## ARTICLE VI

A. Name of dental facility. Since the name under which a dentist conducts his practice may be a factor in the selection process of the patient, and the use of a trade name or an assumed name that is false or misleading in any material respect is unethical. A dentist may practice in a dental facility which uses any of the following names:

1. The name of the dentist as it appears on his or her license and renewal certificate; or
2. The name of a dentist who employs him and practices in the same facility; or
3. A partnership name composed of the name(s) of one or more dentists practicing in the same facility; or
4. A corporate name composed of the name(s) of one or more of the dentists practicing as employees of the corporation in the same facility; or
5. A fictitious name, if the conditions set forth in subsection (B) of this section are fulfilled.

B. Fictitious Name. Dentists licensed in this state who practice as individuals, partnerships, professional corporations, associations or other group practices may use a fictitious or corporate name for the facility in which they conduct their practice if the following conditions are met:

1. Each fictitious or corporate name shall be registered with the Board by a licensed dentist(s), who must be associated with the dental facility and who shall assume responsibility for compliance with the section. Each fictitious or corporate name must be approved by the Board prior to the use of the name. Names which in the judgment of the Board are false, misleading, or deceptive will be prohibited. There will be only one of a kind fictitious or corporate name issued. To issue the same name more than once would be in the opinion of the Board false, misleading, or deceptive.
2. It is the obligation of each licensed dentist or dental hygienist who works in a facility that utilizes a fictitious or corporate name to notify the Board in writing of the same.
3. In the entrance or reception area of the dental office, a chart or directory listing the names of all dentists and dental hygienists practicing at that particular location shall be kept at all time prominently and conspicuously displayed.
4. The names of all dentist and dental hygienists who practice under the fictitious or corporate name shall be maintained in the records of the dental facility for 5 years following their departure from the practice.
5. Fictitious names previously approved and registered with the Board will be considered as being in compliance with these Rules and Regulations.

C. Subsequent to the administration of dental service, the dentist of record shall place his name in the record of the patient following a description of the service rendered. If the treatment is rendered by a dentist other than the dentist of record or by a dental hygienist, the name of that person shall be placed in the record of the patient.

The use of the name of a dentist no longer actively associated with the practice may be continued for a period not to exceed one year.

D. A dentist may practice in a predominantly medical facility that uses a fictitious name.

E. If the fictitious name is used in any advertising, it must be accompanied by the name of the dentist under which the fictitious name was registered and approved by the Board (see Article V(D)).

**PROPOSED REGULATION**

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