

**Rule XXVI - Advertising (Effective August 1, 2000)**  
**(Temporarily Expired December 2, 2002)**  
**(Effective July 1, 2003; Amended October 27, 2004)**  
**(Amended October 26, 2006 and Effective December 31, 2006)**  
**(Amended April 25, 2007 and Effective July 1, 2007)**  
**(Amended October 24, 2007 and Effective December 31, 2007)**

This rule applies to advertising in all types of media that is directed to the public. No dentist or dental hygienist shall advertise in any form of communication in a manner that is misleading, deceptive or false.

- A. Misleading, deceptive, or false advertising includes, but is not limited to the following, and if proven is a violation of Section 12-35-129 (1), C.R.S.:
- (1) A known material misrepresentation of fact;
  - (2) Omits a fact necessary to make the statement considered as a whole not materially misleading;
  - (3) Is intended to be or is likely to create an unjustified expectation about the results the dentist or dental hygienist can achieve;
  - (4) Contains a material, objective representation, whether express or implied, that the advertised services are superior in quality to those of other dental or dental hygiene services if that representation is not subject to reasonable substantiation. For the purposes of this subsection, reasonable substantiation is defined as tests, analysis, research, studies, or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Individual experiences are not a substitute for scientific research. Evidence about the individual experience of consumers may assist in the substantiation, but a determination as to whether reasonable substantiation exists is a question of fact on a case-by-case basis;
  - (5) Claims that state or imply a specialty practice by a general dentist in violation of section (B) hereof;

- (6) The false or misleading use of a claim regarding Board certification, registration, listing, education, or an unearned degree;**
- (7) Advertisement that uses patient testimonials unless the following conditions are met:**

  - (A) The patient's name, address, and telephone number as of the time the advertisement was made must be maintained by the dentist or dental hygienist and that identifying information shall be made available to the Board within ten (10) days of a request for the information by the Board.**
  - (B) Dentists or dental hygienists who advertise dental or dental hygiene services, which are the subject of the patient testimonial, must have actually provided these services to the patient making the testimonial.**
  - (C) If compensation, remuneration, a fee, or benefit of any kind has been provided to the person in exchange for consideration of the testimonial, such testimonial must include a statement that the patient has been compensated for such testimonial.**
  - (D) A specific release and consent for the testimonial from the patient shall be obtained from the patient which shall be made available to the Board within ten (10) days of request of that information.**
  - (E) Any testimonial shall indicate that results may vary in individual cases.**
  - (F) Patient testimonials attesting to the technical quality or technical competence of a service or treatment offered by a licensee must have reasonable substantiation.**
- (8) Advertising that makes an unsubstantiated medical claim or is outside the scope of dentistry, unless the dentist or dental hygienist holds a license or registration in another profession and the advertising and/or claim is within the scope authorized by the license or registration in another profession;**

- (9) Advertising that makes unsubstantiated promises or claims, including but not limited to claims that the patient will be cured;**
- (10) The use of “bait and switch” in advertisements. “Bait and switch” advertising is defined as set forth in the Colorado Consumer Protection Act, Section 6-1-105, C.R.S.;**
- (11) The Board recognizes that clinical judgment must be exercised by a dentist or dental hygienist. Therefore, a good faith diagnosis that the patient is not an appropriate candidate for the advertised dental or dental hygiene service or product is not a violation of this rule;**
- (12) If an advertisement includes an endorsement by a third party in which there is compensation, remuneration, fee paid, or benefit of any kind, the endorsement by the third party must indicate that it is a paid endorsement;**
- (13) Inferring or giving the appearance that an advertisement is a news item without using the phrase "paid advertisement";**
- (14) Promotion of a professional service which the licensee knows or should know is beyond the licensee’s ability to perform;**
- (15) The use of any personal testimonial by the licensed provider attesting to a quality or competence of a service or treatment offered by a licensee that is not reasonably verifiable;**
- (16) At the time any type of advertisement is placed the dentist or dental hygienist must in good faith possess information that would substantiate the truthfulness of any assertion, omission or claim set forth in the advertisement;**
- (17) A licensed dentist or dental hygienist shall be responsible and shall approve any advertisement made on behalf of the dental or dental hygiene practice. The dentist or dental hygienist shall maintain a listing stating the name and license number of the dentists or dental hygienists who approved and are responsible for the advertisement and shall maintain such list for a period of three (3) years;**
- (18) Advertising that claims to provide services at a specific rate and fails to disclose that the patient’s insurance may provide payment for all or part of the services.**

## **B. SPECIALTY PRACTICE AND ADVERTISING.**

- 1. A licensed dentist has the legal authority to practice in any and all areas of dentistry and also the authority to confine the areas in which he or she chooses to practice.**
- 2. Dental specialties are recognized as only those defined by the American Dental Association and dental specialists are those dentists who have successfully completed a Commission on Dental Accreditation specialty program.**
- 3. Practitioners who have successfully completed a Commission on Dental Accreditation accredited specialty program may advertise the practice of that specialty. Practitioners who have not completed an accredited specialty program, and have limited their practice to a specific Commission on Dental Accreditation defined specialty, must clearly state in all advertising and/or public promotions, that he or she is a general dentist who has limited his or her practice to that field of dentistry.**
- 4. It is misleading, deceptive or false for general practitioners to list their names, advertise, or promote themselves in any area or location that implies a specialty. A general practitioner who advertises in any medium under a specialty heading or section may be considered as having engaged in misleading, deceptive or false advertising and may be in violation of section 12-35-129 (1), C.R.S.**