

Know the Do's and Don'ts of Dental Advertising^[1]

In order to educate our members and reach out to non-members, the Florida Dental Association is pleased to provide you with this information about Florida's advertising regulations. The general rules to follow under state law and the ADA Principles of Ethics and Code of Professional Conduct are summarized below, followed by a list of specific "Do's and Don'ts."

Dentists may lawfully advertise to the public but doing so in an improper manner can place your license in jeopardy. Florida Board of Dentistry discipline is a serious matter and some of the rules are very technical, so please be aware of the requirements in order to avoid unintentional violations.

First, advertising is defined to include web sites, billboards, television, radio, yellow pages, telephone listings, newspaper display or classified advertising, "advertorials" (advertisements that look like editorials or news reports), signage, business cards and letter head. The rules apply to any statement, oral or written, that directly or indirectly offers to perform dental services. The rules apply to media exposure of any nature regardless of whether it is in the form of paid advertising or not.

Second, if you are the Florida licensed dentist offering the services, you have assumed total responsibility for the advertisement should the Board of Dentistry receive a complaint. Even if you hire someone else to run the ad, publish the website, use a referral service, etc., you will be the party held responsible by the Board of Dentistry. Just because a practice management consultant or a publisher trying to sell you advertising space says it is okay does not alleviate you of your responsibility as a licensee to ensure the rules are followed.

Third, dentists may not disseminate advertising that is in any way fraudulent, false, deceptive, or misleading. This includes misrepresentations of fact; making partial disclosure of relevant facts; making self-laudatory statements; creating unjustified expectations of favorable results; comparing the quality of your dental services against other available dental services; and making any other representation or implication that in reasonable probability will cause an ordinary prudent person to misunderstand or to be deceived.

When Advertising DO:

- Identify the Florida licensed dentist. List your license number or your name, current address, and telephone number on record with the board.
- If you advertise fees, include:
 1. A disclaimer that the advertised fee is a minimum fee only.
 2. A specified period during which the fee is in effect or that the fee will remain available for at least 90 days following the final advertisement.

3. A description of the service using the exact narrative description or the specific code number used in the CDTII.
- If you advertise free or discounted services:
 1. Include verbatim the following statement in a manner clearly distinguishable from the rest of the advertisement: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT.
 2. State the dates that free or discounted services will be available.
 3. Realize that advertising a free or discounted fee may also be a fee advertisement in which case the rule that is bulleted immediately above this one would also apply.
 - If you advertise specialty services (e.g., endodontic, orthodontic, oral surgery and periodontal procedures) or use terms that generally describe specialty services (e.g., children's dentistry, pediatric dentistry, pedodontics or similar phrases):
 1. State whether the services will be performed by a general dentist or a specialist.
 2. If you yourself are not recognized by the Board of Dentistry as a specialist, state “general dentist, practice limited to (name of particular specialty area).”
 - If you advertise yourself as “general dentist, practice limited to” an area of dentistry that is not recognized as a specialty by the ADA (e.g. cosmetic dentistry or implantology), then you must also include verbatim the following statement in a manner clearly distinguishable from the rest of the advertisement: (NAME OF ANNOUNCED AREA OF DENTAL PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE AMERICAN DENTAL ASSOCIATION OR THE FLORIDA BOARD OF DENTISTRY.

(The statute requiring this disclosure has been ruled unconstitutional in the case of *DuCoin v. Ros* and constitutional in *Borgner v Cook*. Due to the conflicting cases it is unclear at this time how the Board of Dentistry will enforce this statute. However, the ADA Code of Ethics still suggests members include a similar disclaimer.)

- If you refer to, or advertise recognition by, a specialty accrediting organization other than one which has been recognized as bona fide by the ADA or the board, then you must also include verbatim the following statement in a manner clearly distinguishable from the rest of the advertisement: (NAME OF REFERENCED ORGANIZATION) IS NOT RECOGNIZED AS A BONA FIDE SPECIALTY ACCREDITING ORGANIZATION BY THE AMERICAN DENTAL ASSOCIATION OR THE FLORIDA BOARD OF DENTISTRY.

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- If you use a referral service, then you must also state in a manner clearly distinguishable from the rest of the advertisement that:
 1. The advertisement is for a dental referral service and is on behalf of the dentist members of the referral service.
 2. The service refers only to those dentists who have paid or been otherwise selected for membership.
 3. Membership in the referral service is limited by the referral agency.
 4. Dentists who receive referrals from the referral service charge no more than their usual and customary professional fees for service.

When Advertising DO NOT:

- Advertise that the use of lasers is painless, heals faster, or provides better results than other dental procedures.
- Solicit patients for dental services in person or via telephone. You may however communicate with current and former patients to schedule appointments or offer follow-up care without violating the Board of Dentistry rules.
- Advertise your use of Sargenti paste because it falls below the standard of care in the State of Florida.
- Include the name of a person who is not either actually involved in the practice of dentistry at the advertised location or an owner of the practice being advertised. You may however identify the previous owner for a reasonable period of time not to exceed two (2) years (the ADA Code says one year) if you have written permission from that dentist to do so.
- Use an ADA code number that ends in 00 to describe a service for which a fee is advertised. The advertisement must specify by use of exact nomenclature or exact code number what procedure within the sub-category is being offered.

- Advertise yourself as a specialist in an area of dentistry not recognized by the Board of Dentistry as a specialty. The board recognizes as a specialty only those specialties recognized by the American Dental Association. Cosmetic dentistry, facial pain therapy, and implantology are not ADA-recognized specialties. The only specialty areas recognized by the ADA are:
 1. Dental public health.
 2. Endodontics.
 3. Oral and maxillofacial pathology.
 4. Oral and maxillofacial radiology.
 5. Oral and maxillofacial surgery.
 6. Orthodontics and dentofacial orthopedics
 7. Pediatric dentistry.
 8. Periodontics.
 9. Prosthodontics.

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- Advertise yourself as a specialist unless you have completed a specialty educational program approved by the American Dental Association Commission on Dental Accreditation and:
 1. You are eligible for examination by an ADA recognized national specialty board; or
 2. You are a diplomate of an ADA recognized national specialty board; or
 3. You have continuously held yourself out as a specialist in an ADA recognized specialty since December 31, 1964.

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- Advertise “general dentist, practice limited to” an area of dentistry that is not recognized as a specialty by the ADA or the board unless you also include verbatim the following statement in a manner clearly distinguishable from the rest of the advertisement: (NAME OF ANNOUNCED AREA OF DENTAL PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE AMERICAN DENTAL ASSOCIATION OR THE FLORIDA BOARD OF DENTISTRY.
- Advertise an unearned academic degree (e.g., honorary degrees or those awarded by educational institutions not accredited by a generally recognized accrediting body).

- Advertise a non-health academic degree if the public is likely to assume that is related to your qualifications as a practitioner.
- Advertise yourself as a member of the ADA, FDA, component or affiliate dental societies unless you are in fact. If false, this representation may result in both disciplinary and civil liability (for violating organized dentistry's intellectual property rights).

If you have any question about these rules and how they apply to your proposed advertising, you may call the Florida Board of Dentistry at (850) 245-4474;

^[*] Every effort has been made to ensure that this summary of Florida Statutes, Board of Dentistry regulations, and ADA Code of Ethics is current as of its April 2009 publication date. However, statutes and administrative regulations change and this summary should not be relied on as a substitute for advice from an attorney familiar with the facts of your specific matter.