

CHAPTER 26
ADVERTISING

[Prior to 5/18/88, Dental Examiners, Board of [320]]

650—26.1(153) General. Communications by inclusion or omission to the public must be accurate. They must not convey false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means. Communications must not appeal to an individual's anxiety in an excessive or unfair way; and they must not create unjustified expectations of results. If communications refer to benefits or other attributes of dental procedures or products that involve significant risks, realistic assessments of the safety and efficacy of those procedures or products must also be included, as well as the availability of alternatives and, where necessary to avoid deception, descriptions or assessments of the benefits or other attributes of those alternatives. Communications must not misrepresent a dentist's credentials, training, experience or ability, and must not contain material claims of superiority that cannot be substantiated.

There are several areas that the board believes to be susceptible to deceptive or misleading statements. While the board does not intend to discourage dentists from engaging in any form of truthful, nondeceptive advertising, dentists engaging in the type of advertising listed below shall take special care to ensure that their ads are consistent with these rules.

26.1(1) Claims that the service performed or the materials used are professionally superior to that which is ordinarily performed or used or that convey the message that one licensee is better than another when superiority of service or materials cannot be substantiated.

26.1(2) The use of an unearned or nonhealth degree in general announcements to the public.

26.1(3) The use of attainment of an honorary fellowship in an advertisement. An honorary fellowship does not include an award based on merit, study or research. However, the attainment of the fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms, and letterhead and stationery which is not used for the direct solicitation of patients.

26.1(4) Promotion of a professional service which the dentist knows or should know is beyond the dentist's ability to perform.

26.1(5) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.

26.1(6) The use of any personal testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.

26.1(7) Utilizing any statistical data or other information based on past performance or predication of future success, which creates an unjustified expectation about results that the dentist can achieve.

26.1(8) The communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.

26.1(9) Any misrepresentation of a material fact.

26.1(10) The knowing suppression, omission or concealment of any material fact or law without which the communication would be deceptive.

26.1(11) Any communication which creates an unjustified expectation concerning the potential result of any dental treatment.

26.1(12) Where the circumstances indicate "bait and switch" advertising, the board may require the advertiser to furnish to the board data or other evidence pertaining to those sales at the advertised price as well as other sales. Where the circumstances indicate deceptive advertising, the board will initiate an investigation or disciplinary action as warranted.

650—26.2(153) Requirements. The 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.

26.2(1) 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, omission, or representation of material fact set forth in the advertisement.

26.2(2) The failure to possess and rely upon the information required in subrule 26.2(1) at the time the advertisement is placed shall be deemed professional misconduct.

26.2(3) The failure or refusal to provide the factual substantiation to support a representation or assertion when requested by the board shall be deemed professional misconduct.

650—26.3(153) Fees. Advertising that states a fee must clearly define the professional service being offered in the advertisement. Advertised offers shall be presumed to include everything ordinarily required for such a service.

650—26.4(153) Public representation. All advertisement and public representations shall contain the name and address or telephone number of the practitioner who placed the ad.

26.4(1) If one's practice is referred to in the advertisement, the ad may state either "general/family practice" or the American Dental Association recognized specialty that the practitioner practices.

26.4(2) No dentist may state or imply that the dentist is certified as a specialist when that is not the case. Use of the terms "specialist," "specializing in" or other similar terms in connection with areas that are not recognized as specialties pursuant to 650—Chapter 28 is not permitted.

26.4(3) Dentists may advertise the areas in which they practice using other descriptive terms such as "emphasis on _____" or other similar terms.

650—26.5(153) Responsibility. Each professional who is a principal partner, officer, or licensed professional employee, acting as an agent of the firm or entity identified in the advertisement, is jointly and severally responsible for the form and content of any advertisement offering services or materials.

650—26.6(153) Advertisement records. A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media indicating the date and place of the advertisement shall be retained by the dentist for a period of two years and be made available for review upon request by the board or its designee.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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