

BOARD REGULATION NUMBER 43--ADVERTISING

Purpose: The purpose of this regulation is to ensure that the public has access to information which provides a sufficient basis upon which to make an informed selection of dentists, while also ensuring that the public is protected from false or misleading advertisements which would detract from a fair and rational selection process. Accordingly, the Board shall adopt rules which shall regulate the manner of such advertising in keeping with the provisions hereof.

1. For the purposes of Miss. Code Ann. § 73-9-61, “advertising” shall include any information communicated in a manner designed to attract public attention to the practice of the licensee.
2. A dentist may provide information regarding himself or herself, his or her practice, and fixed fees associated with dental services in various forms of public communications. The responsibility for the form and content of an advertisement offering services or goods by a dentist shall be jointly and severally that of each professional who is a principal, partner, officer, or associate of the firm or entity identified in the advertisement.
3. All advertisements shall contain the full name and degree of the practitioner who will provide services. If services are referenced in the advertisement, the advertisement 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.”
4. The Board 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 then 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, as well as the failure to provide such factual substantiation to support a representation or assertion when requested by the Board, shall be deemed unprofessional conduct as set forth in Miss. Code Ann. § 73-9-61(1)(l).
5. A video and/or audio tape of every advertisement communicated by electronic media or copies of printed advertisements shall be retained by the dentist for a period of two (2) years and be made available for review upon request by the Board or its designee.
6. Advertising that references a fee or fees, or a service for no fee, must clearly define the professional service being offered in the advertisement. 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: “**Additional fees may be incurred in individual cases.**”

7. No advertisement by a licensed dentist shall contain any false, fraudulent, misleading, or deceptive statement or claim. The following acts or omissions in the context of advertising by any licensee shall constitute unprofessional conduct as set forth in Miss. Code Ann. § 73-9-61(1)(l), and subject the licensee to disciplinary action:
- a. Contains misrepresentations of fact.
 - b. Misleads or deceive, or is likely to mislead or deceive, because in context the advertisement makes only a partial disclosure of relevant facts.
 - c. Contains laudatory statements about the dentist or group of dentists.
 - d. Creates, or is likely to create, false and unjustified expectations of favorable results.
 - e. Relates to the quality of dental services provided as compared to other available dental services.
 - f. Appeals, or is likely to appeal, primarily to a layperson's fears.
 - g. Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or to be deceived.
 - h. Communicates personal identifiable facts, data, or information about a patient without first obtaining the patient's consent.
 - i. Fails to disclose the fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium (e.g., newspapers or telephone directories) in anticipation of or in return for any advertisement, unless the nature, format, or medium of such advertisement make the fact of compensation apparent.
 - j. Directly or indirectly offers, gives, or agrees to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.

Regulation Forty-Three adopted by the Mississippi State Board of Dental Examiners on February 5, 1993; amended April 21, 1995; amended May 30, 1995; amended March 8, 1996; amended December 6, 1996; amended March 7, 1997; amended August 27, 1999; amended November 3, 2000; amended July 20, 2001; amended December 6, 2002; amended December 2, 2005; rescinded December 2, 2005 amendment on February 24, 2006.