

## SUBCHAPTER 16P - ADVERTISEMENT OF DENTAL SERVICES

### 21 NCAC 16P .0101 COMMUNICATIONS CONCERNING DENTAL SERVICES

A dentist shall not make a false or misleading communication about the dentist or the dentist's services. A communication is false or misleading if it:

- (1) Contains a material misrepresentation of fact;
- (2) Is likely to mislead or deceive because it makes only a partial disclosure of relevant facts;
- (3) Is intended or is likely to create false or unjustified expectations of favorable results;
- (4) Contains express or implied claims of superiority which cannot reasonably be substantiated by the advertising practitioner; or
- (5) Contains other representations or implications which are intended or likely to cause an ordinary, prudent person to misunderstand or be deceived.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### 21 NCAC 16P .0102 ADS MUST INCLUDE DENTIST'S NAME AND AREA OF PRACTICE

All advertisements of dental services shall contain the name or names of the dentist or dentists whose services are being advertised and shall state whether each dentist is a general dentist or, if qualified, a specialist in the named area of specialization. The dentist's name and designation as a general dentist or specialist shall be stated prominently in the advertisement. The dentist whose services are being advertised shall be personally responsible for determining that the content of the advertisement is not contrary to North Carolina law or Board rules.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### 21 NCAC 16P .0103 ADVERTISEMENT OF FEES

Advertisements of dental services shall:

- (1) Not quote a range of fees for a given service unless the basic factors upon which the actual fees will be determined are disclosed;
- (2) Specify any related services which usually are required in conjunction with the advertised services and for which additional fees will be charged; and
- (3) If discounts are advertised, state the amount of the discounts. The dentist must be available in the office and provide upon request a list of actual standard fees to which the discounts will be applied.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### 21 NCAC 16P .0104 TESTIMONIALS AND ENDORSEMENTS

Advertisements for dental services shall not:

- (1) Include false or misleading testimonials and endorsements; or
- (2) Reveal a patient's identity or personally identifiable facts, data or other information obtained in a professional capacity without first obtaining the patient's consent.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;

*Amended Eff. May 1, 1989; October 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,  
2018.*

**21 NCAC 16P .0105      ADVERTISING AS A SPECIALIST**

(a) A dentist shall not advertise or otherwise hold himself or herself out to the public as a specialist, or use any variation of the term, in an area of practice if the communication is false or misleading under Rule .0101 of this Section.

(b) It shall be false or misleading for a dentist to hold himself or herself out to the public as a specialist, or any variation of that term, in a practice area unless the dentist:

- (1) has completed a qualifying postdoctoral educational program in that area as set forth in Paragraph (c) of this Rule; or
- (2) holds a current certification by a qualifying specialty board or organization as set forth in Paragraph (d) of this Rule.

(c) For purposes of this Rule, a "qualifying postdoctoral educational program" is a postdoctoral advanced dental educational program accredited by an agency recognized by the U.S. Department of Education (U.S. DOE).

(d) In determining whether an organization is a qualifying specialty board or organization, the Board shall consider the following criteria:

- (1) whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board shall not constitute a qualifying specialty board or organization;
- (2) whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;
- (3) whether the organization has written rules on maintenance of certification and requires periodic recertification;
- (4) whether the organization has written by-laws and a code of ethics to guide the practice of its members;
- (5) whether the organization has staff to respond to consumer and regulatory inquiries; and
- (6) whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.

(e) A dentist qualifying under Paragraph (d) of this Rule and advertising or otherwise holding himself or herself out to the public as a specialist, or any variation of that term, shall disclose in the advertisement or communication the specialty board by which the dentist was certified and provide information about the certification criteria or where the certification criteria may be located.

(f) A dentist shall maintain documentation of either completion of a qualifying postdoctoral educational program or of his or her current specialty certification and provide the documentation to the Board upon request. Dentists shall maintain documentation demonstrating that the certifying board qualifies under the criteria in Subparagraphs (d)(1) through (6) of this Rule and provide the documentation to the Board upon request.

(g) Nothing in this Section shall be construed to prohibit a dentist who does not qualify to hold himself or herself out to the public as a specialist under Paragraph (b) of this Rule from restricting his or her practice to one or more specific areas of dentistry or from advertising the availability of his or her services, provided that such advertisements do not include the term "specialist," or any variation of that term, and must state that the services advertised are to be provided by a general dentist.

*History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. April 1, 2003; May 1, 1989;  
Readopted Eff. February 1, 2019.*