

DRAFT UPDATES - ADVERTISING ADMINISTRATIVE RULES (ARSD 20:43:04:01):

Draft updates to Advertising and Specialty Advertising (ARSD 20:43:04:01) Administrative Rules are being presented for public input. Stakeholder feedback can be submitted by completing the [Stakeholder Feedback Form](#). Feedback must be submitted by 5pm Central on June 3, 2022. Following that date, the feedback will be reviewed and the draft may be modified accordingly. Thank you for your feedback and participation in this process.

1. To advertise as a “specialist” or advertise using terms “specializes,” “specializing,” or another variation of the term:
 - a. **National Commission on Recognition of Dental Specialties and Certifying Boards of the American Dental Association (ADA):**
 - i. If the dentist is a diplomate of, or board-eligible for, a national certifying board of a specialty recognized by the National Commission on Recognition of Dental Specialties and Certifying Boards of the American Dental Association (ADA):
 1. The dentist may advertise as a “specialist” or advertise using terms “specializes,” “specializing,” or another variation of the term.
 - ii. If the dentist meets the qualifications in 1.a.i. and would like to advertise as a “specialist,” or advertise using terms “specializes,” “specializing,” or another variation of the term, in a procedure or operation that falls within the dentist’s ADA recognized specialty:
 1. The procedure or operation must fall within the scope of the ADA recognized specialty; and
 2. The advertisement must include a disclaimer “*(name of clinical procedure or operation) is not recognized as a separate specialty by the American Dental Association but is included in (name of announced specialty area of dental practice).*”
 - b. **American Board of Dental Specialties (ABDS) or American Board of Oral Implantology (ABOI):**
 - i. If the dentist is a diplomate of the American Board of Oral Implantology (ABOI) or a diplomate of a national certifying board of a specialty recognized by the American Board of Dental Specialties (ABDS) and is advertising a specialty that is not recognized by the ADA, the advertisement must include a disclaimer “*(name of announced specialty area of dental practice) is not recognized as a specialty by the American Dental Association.*”

2. Declaration to the public of a specialty practice or the inference of specialty status outside of this section is unprofessional conduct as defined in § 36-6A-59.1(13);
3. A specialist must avoid any implication that another dentist associated with the same practice or entity is a specialist, unless that dentist also meets the requirements of this section;
4. Any dentist may announce an “emphasis” in any area of dental practice without violating this section;
5. Each licensee who is a director, manager, partner, shareholder, contracted employee or licensed professional employee, acting as an agent of the entity identified in an advertisement, is jointly and severally responsible for the form and content of any advertisement offering services or materials;
6. 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 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. The failure to possess and rely upon the information required at the time the advertisement is placed is unprofessional conduct as defined in § 36-6A-59.1(13). The failure or refusal to provide to the Board the factual substantiation to support a representation or assertion when requested by the Board is unprofessional conduct as defined in § 36-6A-59.1(13);
7. 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 must be retained by the dentist for a period of one year and be made available for review upon request by the board or its designee.