

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 259. PROHIBITED OR RESTRICTED COMMERCIAL OR PROFESSIONAL
ACTIVITIES

Sec. 259.001. FALSE STATEMENTS TO PATIENTS. A dentist may not, in the practice of dentistry, make a misrepresentation or a false or misleading statement to a patient or prospective patient. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.002. NOTIFICATION OF QUALIFICATIONS. Each dental office shall post at or near the entrance of the office the name of, each degree received by, and each school attended by each dentist practicing in the office. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.003. USE OF TRADE NAME. (a) A person may use a corporation, company, association, or trade name, provided that each patient shall be given the name of the treating dentist, in writing, either before or after each office visit.

(b) An advertisement under a corporation, company, association, or trade name must include prominently the name of at least one dentist practicing under the name.

(c) A person using a business or trade name described by Subsection (b) shall file with the board a list of each dentist who practices under that name and a list of each trade name used if that name is different from the name described by Subsection (b).

(d) If information provided under Subsection (c) changes, the person must file updated information with the board not later than the 30th day after the date of the change.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.087(a), eff. Sept. 1, 2001.

Sec. 259.004. DUTIES OF DENTIST IN CERTAIN EMPLOYMENT OR CONTRACTUAL ARRANGEMENTS. (a) A person providing dental services

under an agreement that allows another person to control or influence any aspect of the delivery of dental services, including a business or professional aspect, shall report to the board on request and in accordance with board rules:

- (1) information concerning the agreement;
- (2) the manner in which patients are billed;
- (3) the manner in which the dental service provider is paid and any information provided to patients concerning payment agreements; and
- (4) information concerning the service provider agreement provided to shareholders of organizations contracting with a dental service provider.

(b) A person who practices dentistry and has another dentist practicing with or under the person is responsible for all professional acts performed under the name of the person, regardless of whether the dentist has an ownership interest or an employment or contractual relationship. This section does not affect an individual license holder's responsibilities and rights under this subtitle.

(c) A statute relating to the practice of dentistry in this state may not be construed to prohibit a licensed dentist from maintaining more than one office in this state if the dentist:

- (1) assumes full legal responsibility and liability for the dental services provided in each office; and
- (2) complies with the requirements prescribed by board rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.005. AUTHORIZED ADVERTISING RESTRICTIONS. Board rules adopted under Section [254.002](#) to regulate advertising may include restrictions that prohibit communications to the public that:

- (1) are false, misleading, or deceptive;
- (2) state an opinion regarding the quality of dental services;
- (3) appeal to an individual's anxiety in an excessive or unfair way;

(4) intimidate or exert undue pressure or undue influence over a prospective patient;

(5) create unjustified expectations concerning the potential result of a dental treatment;

(6) refer to benefits or other attributes of dental procedures or products that involve significant risks without including realistic assessments of the safety and efficacy of those procedures or products;

(7) contain statistical data, representations, or other information that is not susceptible to reasonable verification by the public;

(8) refer to a fee for dental services without disclosing that additional fees may be involved in individual cases, if the possibility of additional fees may be reasonably predicted;

(9) offer a discount for dental services without disclosing the total fee to which the discount will apply; or

(10) fail to make truthful disclosure of the source and authorship of any message published under a dentist's byline.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.006. UNLAWFUL ADVERTISING IN GENERAL. (a) A person may not engage in false, misleading, or deceptive advertising in connection with the practice of dentistry.

(b) A person regulated by the board may not engage in advertising that does not comply with the reasonable restrictions adopted by the board under Section [259.005](#).

(c) For the first violation of the board's advertising restrictions, a person may not be prosecuted under this subtitle before the 31st day after the date the person has been given notice by certified or registered mail, return receipt requested, of the alleged violation. The notice must:

(1) include a copy of the applicable portions of this subtitle and all board rules relating to advertising;

(2) describe the alleged unlawful advertising;

(3) identify the board restriction violated; and

(4) include a statement informing the person that the

person has 30 days from the date of the notice to cure the violation.

(d) A person may be prosecuted if the violation is not cured within the prescribed time.

(e) Subsection (c) does not apply to a subsequent violation of the board's advertising restrictions.

(f) This section does not authorize the board to discipline a dentist for an act of an advertising agent that results in a communication to the public that violates the restrictions adopted by the board under Section 259.005 if the advertisement does not specify the name of the dentist or the name under which the dentist practices unless:

(1) the advertising agent is owned or controlled by the dentist;

(2) the dentist provided to the advertising agent for distribution to the public any information that does not comply with the board's restrictions; or

(3) the content of the advertising is determined by the dentist.

(g) The board may bring an action in district court to enjoin an advertising agent from using any advertisement, marketing scheme, or practice that violates the restrictions adopted by the board under Section 259.005. Notwithstanding any other provision of this subtitle, an injunction under this section is the board's sole remedy against an advertising or marketing agent for a violation of this section.

(h) The remedies provided in this section are in addition to the procedures and remedies provided for in Subchapter E, Chapter 17, Business & Commerce Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.007. UNLAWFUL ADVERTISING: OUT-OF-STATE PROVIDER. A person who is not domiciled and located in this state and subject to the laws of this state may not advertise or cause or permit to be advertised, published, directly or indirectly, printed, or circulated in this state a notice, statement, or offer of any service, drug, or fee relating to the practice of dentistry,

unless the advertising conspicuously discloses that the person is not licensed to practice dentistry in this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.008. UNPROFESSIONAL CONDUCT. A person may not directly or indirectly engage in unprofessional conduct relating to dentistry, including:

(1) obtaining or attempting to collect a fee by fraud or misrepresentation;

(2) orally soliciting dental business if the solicitation is:

(A) directed to an individual or a group of less than five individuals; and

(B) made for the primary purpose of attracting the individual or the group to a particular dental practice;

(3) employing, directly or indirectly, or permitting an unlicensed person to perform dental services on a person, except as authorized by law;

(4) claiming or circulating a statement of:

(A) professional superiority; or

(B) performance of professional services in a superior manner;

(5) forging, altering, or changing a legal document relating to the practice of dentistry, including a diploma, license, registration certificate, or transcript;

(6) being a party to or benefiting from the forgery, alteration, or changing of a legal document relating to the practice of dentistry;

(7) making a false statement or misusing a legal document relating to the practice of dentistry;

(8) accepting employment as a dentist under a false, misleading, or deceptive referral scheme;

(9) advertising the performance of dental work without pain or discomfort to the patient; or

(10) advertising a prediction of future satisfaction or success of a dental service.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended

by Acts 2001, 77th Leg., ch. 1420, Sec. 14.088(a), eff. Sept. 1, 2001.