

# Bylaw 12 Interpretive Guidelines

## Advertising and Promotional Activities



# Introduction

Bylaw Part 12 on advertising and promotional activities will be enforced from 1 March 2018.

These interpretive guidelines have been prepared by the Ethics Committee to assist registrants in understanding and applying Part 12 of the CDSBC Bylaws regarding advertising and promotional activities. Bylaw Part 12 and the interpretive guidelines do not apply to personal communication.

The interpretive guidelines supplement particular sections of Part 12 to provide context and assist with interpretation. In some cases, examples are given. The interpretive guidelines mainly refer to “dentists” because the majority of advertising and promotional activities are undertaken by dentists, however Part 12 also applies to dental therapists and certified dental assistants.

The fundamental purposes of Part 12 are to ensure that all promotional activities by registrants are clear, verifiable, understandable, and that they are not misleading, incomplete, or deceptive. The public must at all times have the appropriate information to understand what dental services are being offered, who is offering these services, and their provider’s qualifications. Part 12 seeks to achieve the appropriate balance between these public interest considerations and registrants’ right to freedom of expression. Dentistry is, above all, a healthcare profession undertaken in the best interest of patients and the public; viewed in that light, some restrictions on advertising that might

not exist in other “businesses” are necessary and appropriate.

When reviewing promotional materials, the College will consider the wording used in the context of the materials as a whole as well as how an average member of the public could perceive that wording. Part 12 (and indeed all of the CDSBC Bylaws) should be read in conjunction with the CDSBC Code of Ethics and the Principles of Patient-Centred Care and the Business of Dentistry. There are also other provincial and federal laws that may apply to certain types of advertising.

These interpretive guidelines are not intended to be an exhaustive analysis of all possible promotional materials, nor do they address every section of Part 12. They are provided as guidance only. Registrants must apply their best professional judgment when analyzing whether their promotional activities and materials comply with Part 12.

## Timeline

Bylaw Part 12 was revised on 12 October 2015, and came into force on 1 January 2017. Part 12 was further revised by the Board at the meeting of 23 September 2017. The revisions were filed with the Ministry of Health on 28 September 2017, and came into force on 29 November 2017. The College has allowed an adjustment period for practitioners to bring advertising and promotional materials, and advertising activities into compliance with the Bylaw.

# Interpretation

## Scope and Application (Sections 12.03 and 12.04)

Section 12.04 defines the scope of Part 12, and explains what is meant by the phrase “advertising and promotional activities.” Part 12 applies to all communications or materials that dentists produce or authorize that are intended (or it can be reasonably inferred that they are intended) to attract patients or to encourage the pursuit of dental services. These materials will most often be disseminated to patients or the public rather than to professional colleagues.

The purpose of Part 12 is to protect the public from advertising and promotional information... that is misleading, inaccurate, incomplete, irrelevant, unverifiable, or untrue.

inaccurate, incomplete, irrelevant, unverifiable, or untrue. These concerns do not arise in the context of personal communication. The requirements of Part 12 do not, therefore, apply to items such as letters to colleagues, private communications to hospitals, or other correspondence not intended for patients or the public and which do not have the effect of promoting oneself or services provided.

In most cases, it is clear whether the materials are for promotional purposes. For example, a newspaper advertisement is clearly promotional. On the other hand, a private letter to a friend is clearly not.

Other cases are not as obvious. The determining factors are the intended audience and the purpose of the communication. Broadly speaking, if the communication is intended for patients or the public and/or if the reasonably inferred purpose is to generate business or promote a dentist, clinic, or dental treatment, Part 12 will apply. Some examples are below:

Part 12 does not apply to communication with a hospital for credentialing purposes, or to a private CV submitted for employment. This is because the intended audience is not the public or patients, and the purpose of the communication is for a specific benefit or privilege rather than for generating business.

Part 12 applies to items such as print advertising, office signage, radio or television advertising, a website, internet advertising, and many other advertising and promotional vehicles. It may also include business cards and stationery if they are being used for promotional purposes, including the solicitation of patients.

The purpose of Part 12 is to protect the public from advertising or promotional information about a dentist, and about treatment, that is misleading,

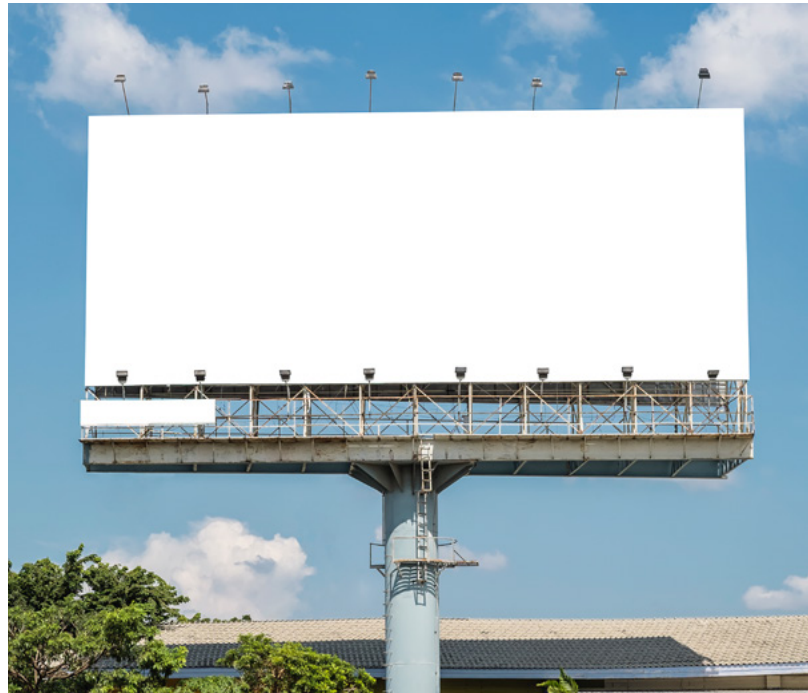
# Interpretation

## Promotional Activities by Dentists and Others (Section 12.05)

Section 12.05 reinforces the fact that dentists are responsible for any promotional activities relating to them, the services they provide, or their practice, regardless of whether they do it themselves or it is done by a third party, such as a web designer, a communications firm, or a consultant.

Dentists are responsible for all promotional material produced or disseminated by them or at their direction or request, or activities undertaken on their behalf, regardless of whether the person doing it is being paid or rewarded.

Dentists are **strongly advised** to provide a copy of Part 12 and these interpretive guidelines to any third party retained to assist with promotional activities, as ultimate responsibility for compliance remains with the dentist.



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# General Parameters for Advertising and Promotional Activities (Section 12.07)

Section 12.07 emphasizes the overriding objectives of Part 12: that all promotional material be accurate, verifiable, understandable, and not harmful to the public. Given that a strong, respectful, and healthy profession is in the public interest, section 12.07 also contains a provision that addresses the need to protect the dignity and integrity of the profession.

Section 12.07 is a broad section of general application. **It applies to all promotional material and activities.** Some common examples are analyzed below:

## Testimonials

Testimonials are inherently unverifiable. The reader of a testimonial is left with an unbalanced and biased assessment of a procedure or service (made by a person who in all likelihood is not qualified to assess it), and cannot know the circumstances or assess the reliability of the information presented. In most cases, testimonials are self-selected and may be edited. Testimonials are not permitted.

A further concern related to testimonials is the practice of “astroturfing.” Astroturfing involves a person or their media consultants posting made-up positive comments or reviews on third party websites or forums. This practice is not permitted under Part 12. Equally unethical is the practice of posting made-up negative comments or reviews with respect to another practitioner. Astroturfing in either of these forms may be a violation of the Code of Ethics and/or an offence under the federal *Competition Act*.

Statements such as “pain-free,” “state of the art” or “a perfect smile” are unverifiable and create unrealistic expectations.

## Pricing

If a price is being advertised, in addition to the prohibition on inducements and specific discounts in section 12.11, the price advertised must not be misleading or incomplete, and it must not be presented in a way that would induce a member of the public to ask for treatment that may not be suitable or required. Advertisements that refer to price must describe the fees and services in sufficient detail to enable the reader to clearly understand the nature and extent of the work to be performed (including any additional work that may be necessary) and the true cost.

## Unrealistic or unverifiable descriptions of treatment and /or results

Statements such as “pain-free,” “state of the art,” or “a perfect smile” are unverifiable and create unrealistic expectations. They are not permitted.

With respect to prescription drugs, such as Botox®, dentists are reminded that Health Canada does not allow direct-to-consumer advertising beyond name, price, and quantity.<sup>1</sup> Therefore, further to 12.07.4(d), it is not permissible to advertise the therapeutic benefits, perceived or actual, of prescription drugs

Another common example occurs when dentists advertise awards, such as “Named Best Dentist in Some Local Newspaper, 2015.” Awards are not relevant to the dentist’s education or qualifications and indeed may have no relationship to their clinical ability. Similar to a testimonial, the example of an award is an unbalanced and biased assessment against some unknown criteria, and it is difficult for a member of the public to determine the circumstances or assess the reliability or relevance. The listing of awards in advertising or promotional materials is not permitted under section 12.07.

1. Food and Drug Regulations, Section C.01.044

# Qualifications, Continuing Dental Education, Titles, and Designations (Section 12.08–12.09)

The purpose of sections 12.08–12.09 is to ensure that the public receives clear, understandable, relevant, and complete information about their dentist's qualifications.

When a dentist lists their name for advertising or promotional purposes, it must be followed by the category of their registration: either as a general dentist, or as a certified specialist including the area of specialization (including the fact that they are restricted to that specialty if that is their category of registration).

## Examples:

Dr. Sanford Scolex, General Dentist

Dr. Marie Curie, Certified Specialist in Periodontics

Dr. Emmett Brown, Certified Specialist –  
Restricted to Periodontics

This ensures that the public is not misled or confused by other titles or certifications that are not relevant to a dentist's class of registration in British Columbia.

Dentists may wish to list their post-secondary degrees, titles, or designations and any additional training, continuing education, or particular dentally related experience. This information may be helpful for patients, but in order for it to be helpful, and not be misleading, the information provided must be complete.

Section 12.09 specifies university degrees, related dental titles, designations, certificates, certifications, associations, registrations, honours, memberships, or any other dental-related references derived from or conferred through either their continuing education activities or granted, conferred or awarded through any other means may be listed.



Such references must first list, immediately after the information required under section 12.08, the university degree(s) accepted by the College for the educational requirement(s) for registration as a general dentist or certified specialist, followed by any other degrees or designations that the dentist wishes to list.

All of the information stated in section 12.09.(b) must be included, and nothing else. Three examples are listed at right:

## Examples:

Doctor of Dental Surgery, 2006; Halifax, Nova Scotia; Dalhousie University.  
Bachelor of Science, 2002; Alberta, Canada; University of Calgary

Doctor of Dental Medicine, 2002; Edmonton, Alberta; University of Alberta.  
Bachelor of Science, 1978; Alberta, Canada; University of Calgary.  
Master of Science in Dentistry, 2008; Seattle, Washington, U.S.A.; University of Washington  
Fellow Royal College of Dentists of Canada, 2009; Ottawa, Ontario; Royal College of Dentists of Canada.

Bachelor of Dental Surgery, 2002; Karachi, Pakistan; Baqai Medical University.  
Diploma from the American Board of Implantology, 2014; Chicago, Illinois, USA.  
Associate Fellow of the American Academy of Implant Dentistry, 2014; Chicago, Illinois, USA

These sections allow the public to receive clear, understandable, and complete information about a dentist's qualifications and education.

While there are many other possible designations a dentist can obtain, their use is **not permitted** in advertising or promotional materials unless they are provided in compliance with the form above. This is because there are so many acronyms, fellowships, and other titles, that it is difficult for a member of the public to obtain complete information and accurately assess the importance or relevance of the designation. See the example at right:

## Example of designations that are not permitted:

Dr. S. Freud, FRCD(C), FAGD, DABOI, FICOI, FACD, FICD, FADI, FACP

Even a well-informed member of the public would find it difficult to accurately assess the relevance or significance of these designations. These designations are misleading because they do not include the necessary context to permit the public to review and analyze the duration, currency, and analyze the duration, currency, and relevance of the program to the dentist's practice.

Another common example is dentists who advertise awards, such as "Named Best Dentist in Some Local Newspaper, 2015". Awards are not relevant to the dentist's education or qualifications and indeed may have no relationship to their clinical ability. Similar to a testimonial, the example of an award is an unbalanced and biased assessment against some unknown criteria, and it is difficult for a member of the public to determine the circumstances or assess the reliability or relevance. The listing of awards in advertising or promotional materials is not permitted under section 12.07.

These sections allow the public to receive a clear, understandable, and complete information about a dentist's qualifications and education.

## Reference to Specialty (Section 12.10)



Dentists are free to list the services that they provide. It is not permissible for a dentist to imply that they are a specialist if they are not registered as such, and it is not permissible to describe an area of treatment in a way that suggests it is a recognized specialty if it is not.

An example of this is a dentist who describes him or herself as a “cosmetic dentist” or “implant specialist” – this is not permissible because it implies that the dentist’s practice is limited to those areas (when it is not) and because neither cosmetic dentistry nor implant dentistry is a recognized specialty. Dentists who are certified specialists holding “restricted to specialty” registration must clearly identify that restriction, and must not imply, suggest, or hold out that they are qualified or entitled to practise as a full registrant or provide treatment beyond their restriction as stated in Bylaw 6.06(5).

## Inducements (Section 12.11)

Section 12.11 deals with inducements. The purpose of this section is to ensure that the public is not given an incentive to seek or obtain procedures that may not be required or appropriate. Treatment offered and delivered to a patient should be based on a reasoned diagnosis and an appropriate individual treatment plan including documented informed consent. This is not a process that lends itself to advertising incentives for “common” or “popular” treatments. It is therefore not permissible to advertise a particular procedure for free or at a discount, or to offer rewards that promote a particular treatment.

An example of this is a dentist who advertises a “free VELscope exam.” The VELscope is an aid used in conjunction with other diagnostic techniques, and is not indicated for all patients. This underscores the need to provide a diagnosis and treatment recommendations specific to each patient, following appropriate informed consent discussions.

This does not limit a dentist’s ability to waive their professional fees or offer a discount to a patient on their invoice (i.e., not an advertised “discount,” and provided that any applicable insurer receives the same proportionate discount applicable to the co-payment), or to advertise or offer rewards programs that apply equally to all treatments.

### Exception for Non-Profit Clinics

There is an exception in section 12.11(a) for dentists and clinics that serve financially disadvantaged or disabled populations. This is intended for good-will and non-profit clinics; it is not an exception for conventional practices to offer free treatment in order to recruit patients or promote other paid services.



# Office Names and Information (Section 12.12)

In addition to working as sole practitioners, dentists are permitted to practise through health profession corporations, and in group practices. However, regardless of practice arrangement, patients are entitled to know who is responsible for the delivery and administration of their care. The purpose of section 12.12 is to ensure that patients know at all times who the practising dentists and owners of their dental office are.

The ethical principles of consent and patient autonomy require that patients be able to choose not only who their dentist is but also who is involved in the administration of their treatment.

Beyond the concepts of autonomy and consent, section 12.12 supports the dentist-patient relationship and ensures that only registered dentists are owners of dental practices. It increases transparency and reinforces the accountability of owners as discussed in the CDSBC standard *Principles of Patient Centred-Care and the Business of Dentistry*.

Promotional materials for a dental office that appear in print, online, or in the dental office must include the names of the owners and the dentists practising at that office. An example is below:

Similarly, under section 12.12(b), the front entryway must specifically indicate which dentists are practising at that location, along with their category of registration.

## Example:

### Route 66 Dental Clinic

**Owners:** Dr. Edsel Ford, General Dentist  
Dr. Louise Chevrolet, Certified Specialist in Orthodontics

**Clinicians:** Dr. Edsel Ford, General Dentist  
Dr. Louise Chevrolet, Certified Specialist in Orthodontics

Dr. Claire Studebaker, Certified Specialist in Endodontics

Dr. Walter Chrysler, General Dentist



# Trade Names (Section 12.13)

Section 12.13 specifies appropriate trade names for dental practices. A trade name may be the name of the dentist practising there, a name approved by the College (subject to the requirements of Part 11), or another name that is in compliance with Bylaw 12.

This means that there is a broad freedom to choose almost any trade name, as long as it does not offend any of the sections of Part 12.

## Examples of Trade Names Not Permitted:

“Implant Specialties Dental” is **not permitted** because it offends section 12.10 by implying that implants are a recognized specialty.

“Painless Dental” is **not permitted** because it offends section 12.07(d) by appealing to fear of pain in dental treatment.

# Concerns about another registrant’s materials

If you are a registrant and you have a concern about another registrant’s promotional materials, you can submit a formal complaint to the College; however, the College strongly encourages all registrants to discuss any concerns they have about promotional activities of other registrants and attempt to resolve the issues among themselves before submitting a complaint.

If the concern cannot be addressed informally, you can submit a complaint. Learn how to do so at [www.cdsbc.org/public-protection/submit-a-complaint](http://www.cdsbc.org/public-protection/submit-a-complaint).

The College strongly encourages all registrants to discuss any concerns they have about the promotional activities of other registrants and attempt to solve issues among themselves before submitting a complaint.



# Conclusion

These interpretive guidelines discuss specific topics in Part 12 of the CDSBC Bylaws. They are intended to provide registrants with guidance in designing their promotional materials. However, the interpretive guidelines are not conclusive or exhaustive, and they should not be considered a substitute for professional judgment, or if necessary, professional advice.

**Board Approved** June 2016; February 2018

**Published:** June 2016; February 2018



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