



Guide for Advertising and Promotional Activities for Alberta Dentists

May 2017

Table of Contents

A. Introduction	3
B. Examples for Guidance of Acceptable Advertising	4
C. Examples for Guidance of Unacceptable Advertising	7
1. Online Search Results and Search Engine Optimization.....	7
2. Degrees.....	7
3. Dental Specialties	8
4. Awards/Fellowships/Individual Designations.....	8
5. Evidence Based and Objectively Verifiable	9
6. Dental Services and Treatment.....	10
a. Exaggerated Expectations.....	10
b. Testimonials.....	11
7. Equipment and Training.....	11
8. Trade Names	12
9. Coupons and Time Limited Offers	13
10. Setting Dental Fees.....	13
D. Advertising of Prescription Drugs and Medical Devices	14
E. Processing Advertising Complaints	15
F. References	16
Appendix 1:.....	17
Appendix 2:.....	18

A. Introduction

The Alberta Dental Association and College (ADA&C) recognizes the value of marketing and advertising to inform the public of a dentist's role in providing dental care and to promote a dental practice. This document is provided by the Alberta Dental Association and College to assist Alberta dentists with making sound and ethical advertising and promotional decisions. These decisions must be based on the Alberta Dental Association and College Code of Ethics, the *Health Professions Act*¹ of Alberta and contribute to the public's trust and confidence in the dental profession. Examples are provided to illustrate and guide a dentist's advertising and promotional language. The examples provided do not encompass the whole spectrum of permissible or unacceptable advertising. These guidelines do not replace the Code of Ethics or the *Health Professions Act*. At times, it is difficult to identify a word or phrase that is off side because the entire advertisement must be read to understand the overall message the dentist is trying to convey.²

Dentists in Alberta are permitted to advertise in a variety of mediums such as the internet, internet search engines, websites, television, radio, social media forums, audio and visual messaging, displays, traditional newspaper and paper-based methods. The content of the advertising must promote the practice and services of dentists in an ethical, truthful and evidence-based manner. The purpose of advertising is to inform the public of the services a member provides and not to promote one dentist's superiority over another dentist.³

To achieve these objectives, the Alberta Dental Association and College Code of Ethics provides a set of principles of professional conduct that governs all regulated members and establishes the expectations for dentists in fulfilling duties to their patients, to the public and to the profession.⁴ The Code of Ethics affirms and clarifies principles that are definitive to professional and ethical dental care and is an important part of the way in which the ADA&C fulfills its obligation to promote and protect the public interest. All dentists must comply with the Code of Ethics and the *Health Professions Act*. Owner dentists, investor dentists and associate dentists must ensure that all advertising of their dental services complies with the Code of Ethics and the *Health Professions Act* including managing their dental office staff and third party organizations who may be assisting with advertising and promotions.⁵

Dentists must be aware of and ensure compliance with other legal enactments that apply to the profession and their advertising. These include the Food and Drugs Act (Canada) and the Food and Drug Regulations (Canada). Note: Refer to section D of this guide.

¹ Section 102 of the *Health Professions Act*

² Article B4.1 of the *Code of Ethics*

³ Article B4.2 of the *Code of Ethics*

⁴ "Purpose, Authority and Accountability" the *Code of Ethics*, Page 3

⁵ Article A12 and B2 of the *Code of Ethics*

B. Examples for Guidance of Acceptable Advertising

Dentists can advertise and promote their scope of practice and the services they provide such as but not limited to:

- Restorative dentistry
- Endodontics
- Orthodontics
- Periodontal surgery
- Implant placement
- Implant restorations
- Dentures
- TMJ appliances
- Dental extractions
- Children’s dentistry
- Emergency dentistry
- Cosmetic dentistry
- Family dentistry

Dentists need only declare as General Dentist(s) directly adjacent to any specific listings of services provided and next to the dentist’s name such as:

- In print advertisement, social media, texts and emails, the font size should correspond with the font used in the advertisement or promotion and be located beside or directly underneath the name of the dentist;
- In websites, there should be references in the same sized font as the text and be found on the home page, the biography of the dentist and directly adjacent to any specific listings of services provided and next to the dentist’s name as the entire website may not be viewed at one time; and
- In radio, television, voice mails and any audio/visual recording available on line, the reference should be stated immediately after references to a dentist’s name.

Fees can be advertised and promoted. When advertising fees, the advertisement must only be intended for information for the public and must comply with the Code of Ethics.⁶ For instance, it would be unethical for a dentist to advertise the cost of dental implant treatment (the actual placement of the dental implant) and not explain all costs associated with the implant treatment including bone grafting, examinations, restorative treatment and the impact of failures on the cost and future care. Examples of fees that can be advertised include:

- New patient and recall exams \$XX.XX
- Units of scaling (one unit 15 minutes).....\$XX.XX
- One surface restorations with an explanation that larger restorations will cost more.
- Extractions,..... simple \$XX.XX complicated \$XX.XX.
- Crowns..... Porcelain fused to metal \$XX.XX All porcelain \$XX.XX
- Dentures..... Full Upper \$XX.XX Cast Partial Denture \$XX.XX
- Night Guard.....\$XX.XX

⁶ Article B5 of the Code of Ethics

Dentists can offer a percentage discount to a segment of the population such as seniors, provided the discount is applied universally to that group and to their third party provider and must follow Human Rights legislation. The discount cannot be in conjunction with a time limited offer, such as Senior's Day.

Dentists can offer a no cost consultation such as a "meet and greet".

Although the fee may be \$0.00, the cost associated with the dentists' time is generally absorbed in the overhead which makes up a portion of the fees charged by the dentist. Therefore, a "free" consultation is not actually free. What is recommended is for dentists to describe this consultation as a "meet and greet". The term "meet and greet" is a generally accepted term that the general public associates with a no cost meeting. It is encouraged that dentists describe what will happen during the "meet and greet" and specify the duration. This will clearly establish a differentiation between the consultation and the exam. Dentists must ensure that if a potential patient is attending their office for a consultation that it does not morph into an exam that will result in fees being charged to the potential patient.

It is quite common to see a dental practice offering something for "free" when a patient books an exam. This is usually tied in with a new patient exam. Unfortunately nothing is ever actually for free. There is a cost associated with acquiring the "free" item and there is the dentists' time that must be accounted for as well. These costs are generally absorbed in the overhead which makes up a portion of the fees charged by the dentist. There is also the issue that when an item is being given in association with a new patient exam, this creates a time limited offer. Should a dentist wish to provide their patients with whitening or electric toothbrushes, they must make this offer to all patients all the time. For example, "whitening or an electric toothbrush included with all cleanings and exams".

Dentists can advertise basic information about their practice, such as:

- Hours and days of operation;
- Contact information;
- Languages spoken; and
- Names of dentists/associates at the practice.⁷

Dentists can list a biography of their formal education to obtain a DDS/DMD degree and/or any dental specialty recognized by the Alberta Dental Association and College⁸, such as

- Year of graduation;
- Dental school attended;
- Recognized university degrees
- Undergraduate education; and
- Registered dental specialist as a Registered Endodontist (or Endodontist), Registered Prosthodontist (or Prosthodontist), and so on.

⁷ Article B4.4 of the Code of Ethics. Names of dentists must be included if advertising under a Trade Name.

⁸ Article B4.6 of the Code of Ethics

Treatment information can be advertised such as how procedures are done and appliances or products used. Brand names can be advertised as long as they do not imply superiority or otherwise breach the Code of Ethics.

Links to manufacturer's websites can be placed on websites as long as the product name does not imply superiority or otherwise breach the Code of Ethics.

In-office patient of record compliance programs are acceptable as long as all of the advertising and promotion remains in the office/practice. No external advertising of these programs is permitted.

Dentists can advertise and promote objectively verifiable statements⁹. Objectively verifiable means capable of being proven by facts independent of personal feelings, beliefs, opinions or interpretations. Peer-reviewed articles from reputable, independent scientific publications can serve to establish objectively verifiable information.

⁹ Article B4.2 of the Code of Ethics

C. Examples for Guidance of Unacceptable Advertising

Dentists must not advertise or promote in a way that is false, misleading, deceptive, ambiguous or fraudulent.¹⁰ This includes that a dentist must not misrepresent their education, qualifications or competence. Advertising educational degrees that have not been attained is not permitted. All advertising and promotional activities must comply with the Code of Ethics, including publications in a language other than English.

1. Online Search Results and Search Engine Optimization

Online search results listings must display content that complies with the Code of Ethics and Health Professions Act. In trying to optimize a search result for their on-line advertising, dentists cannot use terms that are misleading or false. As an example, general dentists cannot use words like endodontist or periodontist in their search engine optimization or URL to gain a higher ranking in search result listings of Alberta dentists.

2. Degrees

Dentists must not express or imply that they are specialists, or have specialist training, unless the dentist is registered in a specialty recognized by the ADA&C. Promoting oneself as an expert such as: cosmetic dentist, sedation dentist, mercury free dentist, esthetic dentist, restorative dentist, biocompatible dentist, emergency dentist, and implant dentist where there are no recognized specialties¹¹ falls into unacceptable advertising. Where there are recognized specialties, only registered specialists in Alberta can advertise and promote themselves as a specialist in their field. Those dental specialties (titles) included in the *Health Professions Act*¹² are:

- Endodontist;
- Oral and Maxillofacial Radiologist;
- Oral and Maxillofacial Surgeon;
- Oral Medicine and Pathology Specialist;
- Orthodontist and Dentofacial Orthopedist;
- Pediatric Dentist;
- Periodontist;
- Prosthodontist; and
- Public Health Dentist.

¹⁰ Articles B4(a) and B4.1 of the Code of Ethics

¹¹ Article B4(e) and B4.6 of the Code of Ethics

¹² Schedule 7 Section 2 of the Health Professions Act

3. Dental Specialties

Registered specialists can only advertise that they are specialists in their recognized field of specialty.¹³ Examples include:

- General dentists who provide orthodontic treatment must not refer to or promote themselves as an orthodontist;
- Periodontists must not refer to or promote themselves as an implant specialists;
- Dentists who prescribe snoring appliances must not refer to or promote themselves as sleep specialists or certified Botox provider; and
- Dentists who have a Level 2 Certificate in Facial Esthetics or higher from the Alberta Dental Association and College must not represent themselves as Botulinum Toxin Type A specialists; and
- Dentists, other than Oral and Maxillofacial Surgeons, must not refer to and promote themselves as Oral surgeons.

4. Awards/Fellowships/Individual Designations

Dentists must not advertise courses, programs or dental awards in their advertising, other than their DDS degree, DMD degree or other University or College degree that was for a dental specialty recognized by the ADA&C.¹⁴ All dentists must maintain their professional competence throughout their practice and this includes obtaining their continuing competence credits to maintain their registration in Alberta. These courses are often promoted to suggest the practitioner is a specialist or has specialty training. However, such courses or any additional education must not be advertised as the advertising can mislead the public about one's standing and status as a dentist¹⁵ and can imply superiority over the services of another dentist.¹⁶

All dentists in Alberta must satisfy legislative registration requirements prior to registration. Upon successful registration to practice in Alberta, dentists are promoted as having attained the legal requirements for entry to the profession. Based on this, a dentist must not advertise awards, programs, fellowships or relationships with educational institutions or providers that compare one dentist to another in a superior manner or are not requirements for entrance into the profession.¹⁷ For instance, the following examples are not permitted:

- Gold medalist in dental school;
- Fellowship in an organization other than the Royal College of Dentists of Canada;
- Teaching at a dental school;
- Consumer's Choice Awards;
- Listing organizations other than the Alberta Dental Association and College, the Canadian Dental Association and the Royal College of Dentists of Canada;

¹³ Article B4.7 of the Code of Ethics

¹⁴ Article B4.6 of the Code of Ethics

¹⁵ Article B4.7 of the Code of Ethics

¹⁶ Article B1, B4 and B4.6 of the Code of Ethics

¹⁷ Article B4.6 of the Code of Ethics

- Advertising continuing competence courses you teach; and
- Advertising designations or certifications from other countries about courses obtained or taught.

Linking your website to any website that promotes an individual designation is not allowed such as continuing competence websites and any website created by a manufacturer of a medical device or product that promotes an individual designation for their product. These links are beyond what can be advertised and suggest claims of specialty.¹⁸ For instance, the following situations are not permitted to be advertised:

- A manufacturer of orthodontic appliances provides training to dentists to use their product. After accumulating a certain number of hours, the dentist is then promoted as a special or super provider of the orthodontic appliance.
- A continuing competence provider and association distribute certificates to attendees or members who have accumulated a certain number of hours and training. The certificates designate the attendee or member as a Diplomate.

LinkedIn website is a professional networking site and is not subject to the same restrictions as a website, Facebook, etc.

5. Evidence Based and Objectively Verifiable

As a healthcare provider, information advertised and promoted must be evidence based and objectively verifiable.¹⁹ It must not be presented in a manner to create fear or prey on the insecurities of our society.²⁰ Examples of this include references to:

- Exaggerated health benefits such as removing amalgam cures Multiple Sclerosis;
- Sleep apnea appliances will make you look younger, lengthen life and improve one's sex life;
- Unproven and misleading effects of treatment such as curing depression and assisting with weight loss;
- Amalgam fillings are old fashioned; and
- Untrue statements about a service or treatment such as, dental implants are as good as natural teeth and will last forever, or claims that restorative treatments will not require replacement.

¹⁸ Articles B1, B4, B4.7 and B4.8 of the Code of Ethics

¹⁹ Article B4.2 of the Code of Ethics

²⁰ Article B4 of the Code of Ethics

6. Dental Services and Treatment

When advertising and promoting a specific treatment, a dentist must not overstate the benefits of a procedure or omit information that results in a misleading statement²¹ such as:

- Not explaining the risks of procedures. For instance, not explaining that veneer treatment may require removal of healthy tooth structure;
- Not explaining the complexities of obstructive sleep apnea treatment such as the requirements of a medical assessment from a physician and coordinating care with a physician;²²
- Promoting your services and/or practice as holistic or biocompatible;
- Not explaining the possible outcomes of treatment such as failure of a dental implant or bone graft; and
- Not explaining the risks of removing amalgam restorations for the sole or primary purpose of replacing the amalgam with a composite restoration.²³

a. Exaggerated Expectations

When advertising and promoting dental services and treatment, information must be referenced in an unbiased manner to present an objective and unemotional picture of the outcome of dental treatments.²⁴ A dentist must not use words or statements that create an exaggerated expectation or guarantee the results of dental treatment. Examples include references such as:

- Dental implants function exactly like natural teeth;
- Improving your smile will improve your life;
- You will keep teeth for the rest of your life;
- Statements that generally minimize the complexity of treatment and the healing period, including catch phrases like "smile makeover" and "full mouth rejuvenation";
- Crowns last for a referenced period of time whether, for instance, a lifetime or ten years; and
- Referencing a percentage of patient satisfaction
- A specific procedure is easy and maintenance free

Dentists must not promote themselves as offering a unique service or superior treatment results.²⁵ Examples include references such as:

- Gentle dental care;
- Affordable;
- High quality;

²¹ Article B4.1 of the Code of Ethics

²² CDA Position on Oral Appliance Therapy for Snoring and Obstructive Sleep Apnea, November 2012

²³ Canadian Dental Association: Your Oral Health: Dental Amalgam FAQs. Refer to www.cda-adc.ca/en/oral_health/faqs/dental_amalgam_faqs.asp

²⁴ Article B4(b) of the Code of Ethics

²⁵ Articles B4 and B4.2 of the Code of Ethics

- Best, revolutionary, exceptional, unique, advanced;
- Pain-free, painless;
- State-of-the-art, cutting edge; and
- Performing a specific procedure in one appointment is better than multiple appointments.

b. Testimonials

Testimonials present a biased, one dimensional and enthusiastic personal commentary about a person's experience with a dentist. Testimonials do not present a balanced commentary about the risks and benefits of treatment, or a patient's negative experience or opinion about a dentist. Testimonials are not objectively verifiable and are considered inherently misleading. Testimonials must not be used to advertise or promote dental services.²⁶ Advertising maps to identify the residence of a dentist's patient population is considered to be part of a testimonial and is not permitted.

Before and After photos are considered a visual testimonial because they represent an assurance of quality and outcome by the dentist and satisfaction by the patient. The photos capture a moment in time of a smiling face and represent an emotional appeal. Like a written testimonial, Before and After photos are inherently misleading as they may create unreasonable expectations about the results that can be achieved, the complexity of a particular case and the ultimate function of the resulting treatment. Before and After photos must not be used to advertise or promote dental services.

Many potential dental patients visit a dentist's website hoping to view a gallery of photos showing how patients looked prior to their dental procedure, and then after the procedure has been completed. However showing photographs of other patients without a consultation may set unrealistic expectations for those considering a dental procedure. Each patient is a unique case, and the results of their procedure can be affected by a variety of outside factors including genetics, diet, and after care. A patient could view an image of someone else and expect to achieve the same result. Patients need to be aware of what they as an individual can reasonably expect to achieve. Before and After photos can be used within the dentist's office during consultations with patients.

7. Equipment and Training

All equipment and materials used by dentists to provide dental treatment, or perform restricted activities, must be approved by Health Canada. Of course, dental equipment is a tool used to deliver quality dental treatment and on its own cannot guarantee a superior result or any result. It is also difficult to objectively verify a statement about equipment as individual patients' experiences and results may differ from each other. New equipment is constantly marketed to replace previous models. Dentists must not make advertising claims about material, equipment or techniques in a way that represents or implies that such equipment, material or techniques are superior in quality to those of other dentists,

²⁶ *Articles B4 and B4.2 of the Code of Ethics*

implies superior results are achievable or that superior dental care is provided.²⁷ This reasoning also applies to the dental team and staff who work for a dentist or at a practice. Also, the name of the equipment or technique must not represent or imply superiority. For instance, the following are not allowed:

- Using exaggerated claims about digital radiographs emitting less radiation than traditional radiographs to claim superiority or to create fear;
- Lasers offer better results with less pain than traditional dental treatment;
- Advanced equipment;
- A dentist can list their years in practice however the combined dental experience of staff is not allowed to be advertised; and
- Implying or expressing that faster treatment is better such as one appointment crowns, faster orthodontic treatment and quick tooth whitening.

8. Trade Names

Any name that promotes a dental practice or dental services is considered a Trade Name for the purpose of the Code of Ethics. Domain names are considered Trade Names. A Trade Name must be approved by the ADA&C prior to its use.²⁸ There are specific names that will not be approved. There are several reasons for this, depending on the reference. For instance, when referring to Trade Names:

- A general dentist cannot use the name of a treatment or service in a trade name as it may be perceived that the dentist is a specialist;²⁹
- No general dentist or specialist can use "implant", "cosmetic", "esthetic", "spa", "holistic", or "biocompatible";³⁰
- The name of the province cannot be used; and
- The word "emergency" cannot be used.

An appeal of unapproved Trade Names can be made to the ADA&C Executive Committee and it will be addressed at the next meeting after receipt of the appeal. The appeal must include the Trade Name being appealed along with the reason for the appeal and be submitted to the ADA&C office.

²⁷ Article B4.2 of the Code of Ethics

²⁸ Article B4.4 of the Code of Ethics. Trade Names in use prior to October of 2007 do not require approval but must comply with the Code of Ethics.

²⁹ Article B4.8 of the Code of Ethics

³⁰ Articles B4.7 and B4.8 of the Code of Ethics

9. Coupons and Time Limited Offers

The Code of Ethics is unequivocal that a dentist must not use coupons or time limited offers.³¹ A time limited offer is essentially a sale of dental services or treatments. Offering coupons and time limited offers can result in patients delaying dental treatment because they are waiting for the dentist to have a sale of their dental services. For instance:

- Free whitening kit or iPad with a new patient exam;
- New Patients receive an examination and a series of x-rays for a lower fee than what would be normally invoiced;
- Writing off the patient portion of dental fees for anyone including friends and family;³²
- Current patients are offered a percentage discount to remove their amalgam restorations and replace them with composites; and
- Offering money or other gifts in exchange for a patient referral.³³

10. Setting Dental Fees

A dentist shall not set fees based on whether or not a patient has insurance (with the exception of government programs).

³¹ Article B4 of the Code of Ethics

³² Article B5.1 of the Code of Ethics

³³ Article B5 of the Code of Ethics

D. Advertising of Prescription Drugs and Medical Devices

Neuromodulators and other Schedule 1 Drugs: Only dentists who have received an Alberta Dental Association and College Level 2 Basic Neuromodulators: Upper Face and Bruxism Treatment Certificate or higher are permitted to provide facial esthetic therapies and adjunctive procedures in a dental practice.³⁴ As with all services, dentists can advertise that they offer this service but must not advertise their training to provide it.³⁵

Botulinum Toxin Type A is a prescription drug. Like all drugs and medical devices, it is also regulated by Health Canada and the advertising and promotion of it must comply with the *Food and Drugs Act* and the *Food and Drug Regulations*, as well as the Alberta Dental Association and College Code of Ethics and the *Health Professions Act*.

The *Food and Drug Regulations*, section C.01.044, provides that if a person advertises a prescription drug to the general public, the person shall not make any representations other than the brand name, the proper name, the common name and the price and quantity of the drug. Refer to Health Canada's website for more information about the advertising of drugs and medical devices.

http://www.hc-sc.gc.ca/fn-an/legislation/acts-lois/act-loi_reg-eng.php

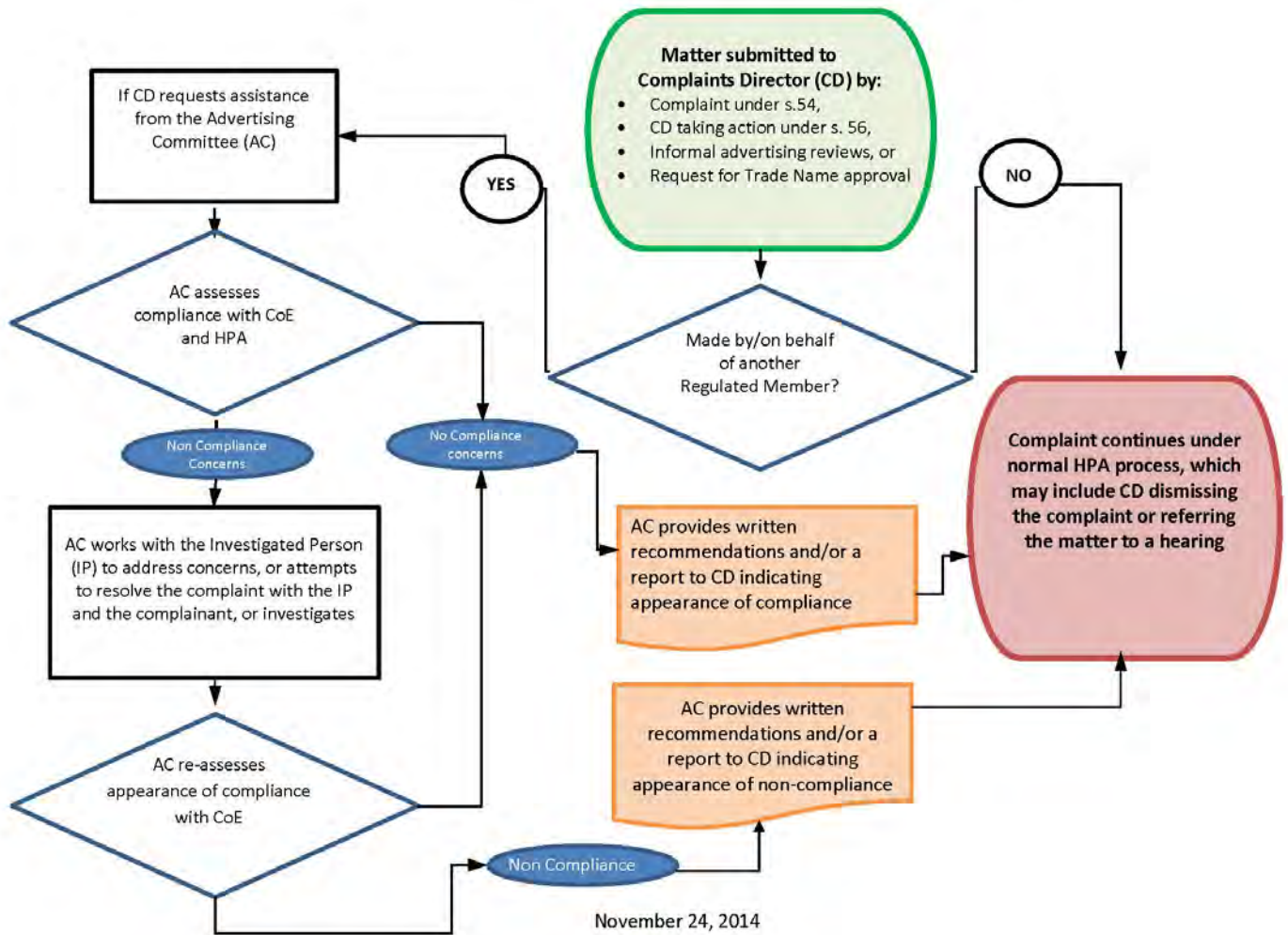
³⁴ *Alberta Dental Association and College Standard of Practice: Facial Esthetic Therapies and Adjunctive Procedures in Dental Practice.*

³⁵ *Article B4.7 of the Code of Ethics*

E. Processing Advertising Complaints

Complaints are submitted to the Complaints Director of the Alberta Dental Association and College. The Complaints Director can refer a complaint to the Advertising Committee for review as outlined in the following chart:

Advertising Committee: Assisting with Advertising Complaints Referred by Complaints Director



F. References

Appendix 1: A review of a recent decision of the Ontario Supreme Court provides a framework for acceptable advertising and public perceptions of health care providers.

Appendix 2: Section 102 of the *Health Professions Act*

Court Upholds Ontario College's Restrictions on Advertising

Kathryn Oviatt, B.A. LL.B.
Legal Counsel, Field LLP

In October of 2013, the Ontario Divisional Court confirmed that regulatory restrictions on advertising do not contravene the *Canadian Charter of Rights and Freedoms*. In *Yazdanfar v. College of Physicians and Surgeons of Ontario*, a physician appealed a decision of a hearing tribunal to the Ontario Divisional Court. The hearing tribunal found the physician was guilty of disgraceful, dishonourable and unprofessional conduct because of her online advertising.

The College had specific rules restricting advertising including banning testimonials or superlatives and false, misleading and deceptive advertising. Dr. Yazdanfar argued that due to the widespread use of testimonials and superlatives by other physicians, the mere use of testimonials and superlatives cannot be considered as sufficient to support a finding of unprofessional conduct. The hearing tribunal of the College rejected this argument and the Ontario Court agreed, particularly because Dr. Yazdanfar knew of the ban. The Ontario Court emphasized that an excuse of "everyone else is doing it" is not a proper defense to clear breaches of the College's advertising rules.

The Ontario Court then considered whether the ban on testimonials and superlatives was constitutional. The parties agreed that the restriction infringed Dr. Yazdanfar's freedom of expression, but the court concluded that the restriction was justified. In doing so, the court considered the following factors:

1. Advertising is commercial speech, and is not entitled to the same protection as political speech or self-expression.
2. The restrictions arise in the context of a self-governing profession where the ban is not a law of general application, but only applies to a member of the profession, a "volunteer who has elected to accept the substantial privileges and significant responsibilities of being a member of a self-governing profession."
3. Patients and potential patients are in a vulnerable position, particularly consumers of elective procedures.

4. The harm that is being addressed is not subject to scientific proof, so logic and common sense can be relied upon to show the harm or potential harm of advertising testimonials and superlatives. Deference should be shown to regulators.

The Ontario Court specifically addressed problems with advertising testimonials and concluded that testimonials are "inherently misleading" and that they are not objectively verifiable.

Restrictions on advertising by a College that prohibits misleading statements, claims of superiority, claims that are not objectively verifiable, claims that may lead to unreasonable expectations in patients, claims that are misleading about the professional's registration or specialization, or claims that tend to harm the dignity and honour of the profession, will likely be upheld by the courts as constitutional.

Appendix 2:

Section 102 of the *Health Professions Act*

Advertising

102 A regulated member shall not engage in advertising that is untruthful, inaccurate or otherwise capable of misleading or misinforming the public.

1999 cH-5.5 s102