

Report of the Council on Ethics, Bylaws and Judicial Affairs on Advisory Opinion 5.H.2.
SPECIALIST ANNOUNCEMENT OF CREDENTIALS
IN NON-SPECIALTY INTEREST AREAS

Ethical Advertising under ADA Code: The American Dental Association recognizes the right of its members to promote their practices within the ethical standards set forth in the ADA *Principles of Ethics and Code of Professional Conduct* (“Code”). Section 5.F. ADVERTISING of the *Code* states:

ALTHOUGH ANY DENTIST MAY ADVERTISE, NO DENTIST SHALL ADVERTISE OR SOLICIT PATIENTS IN ANY FORM OF COMMUNICATION IN A MANNER THAT IS FALSE OR MISLEADING IN ANY MATERIAL RESPECT.

The standard of “false or misleading in any material respect” is accepted in ethics and the law to distinguish between permissible and non-permissible advertising. The rationale for this standard is the protection of the public. Truthful, nondeceptive advertising of a dentist’s qualifications, services or facilities can help patients make informed choices about practitioners and services. On the other hand, advertising which is false or misleading can harm patients by making it more difficult and costly for them to make informed choices.

Ethical Concerns Raised by Advertising of Credentials by Specialists: Section 5.H. ANNOUNCEMENT OF SPECIALIZATION AND LIMITATION OF PRACTICE, of the *Code* sets forth the General Standards for determining the education, experience and other appropriate requirements for announcing specialization and limitation of practice. These are:

1. THE SPECIAL AREA(S) OF DENTAL PRACTICE AND AN APPROPRIATE CERTIFYING BOARD MUST BE APPROVED BY THE AMERICAN DENTAL ASSOCIATION.
2. DENTISTS WHO ANNOUNCE AS SPECIALISTS MUST HAVE SUCCESSFULLY COMPLETED AN EDUCATIONAL PROGRAM ACCREDITED BY THE COMMISSION ON DENTAL ACCREDITATION, TWO OR MORE YEARS IN LENGTH, AS SPECIFIED BY THE COUNCIL ON DENTAL EDUCATION [AND LICENSURE], OR BE DIPOMATES OF AN AMERICAN DENTAL ASSOCIATION RECOGNIZED CERTIFYING BOARD. THE SCOPE OF THE INDIVIDUAL SPECIALIST’S PRACTICE SHALL BE GOVERNED BY THE EDUCATIONAL STANDARDS FOR THE SPECIALTY IN WHICH THE SPECIALIST IS ANNOUNCING.
3. THE PRACTICE CARRIED ON BY DENTISTS WHO ANNOUNCE AS SPECIALISTS SHALL BE LIMITED EXCLUSIVELY TO THE SPECIAL AREA(S) OF DENTAL PRACTICE ANNOUNCED BY THE DENTIST.

The nine specialties currently approved by the Association are: dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and

maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics and prosthodontics.

A dentist who meets the General Standards for announcement of specialization and limitation of practice may also possess credentials in non-specialty interest areas, such as implant dentistry, cosmetic dentistry or temporomandibular joint disorder. The dentist may wish to announce these non-specialty credentials with the dentist's specialty credentials. The ethical challenge for this dentist is how to do so without creating the impression of equivalency between specialty and non-specialty credentials. For example, the statement "Specialist in periodontics and implantology" would be likely to mislead the public into believing that there is a specialty known as implantology. The statement "Board certified in prosthodontics and cosmetic dentistry" raises the same concern.

Need for the Advisory Opinion: The Council has noted over the years the growth of organizations that issue credentials to dentists in non-specialty interest areas. The Council is aware of at least eighteen organizations that issue one or more credentials in non-specialty interest areas, and their number seems to be growing. A recent Council review of sample Yellow Pages advertising from around the country shows that specialists are as likely to announce non-specialty credentials as general dentists. In 1998, the Council adopted Advisory Opinion 5.I.1. GENERAL PRACTITIONER ANNOUNCEMENT OF CREDENTIALS. At that time, the Council indicated its intention to address the issue of specialist announcement of credentials in non-specialty interest areas in a separate advisory opinion, which is Advisory Opinion 5.H.2.

Text of Advisory Opinion: Advisory Opinion 5.H.2 reads as follows:

5.H.2. SPECIALIST ANNOUNCEMENT OF CREDENTIALS IN-NONSPECIALTY INTEREST AREAS.

A DENTIST WHO IS QUALIFIED TO ANNOUNCE SPECIALIZATION UNDER THIS SECTION MAY NOT ANNOUNCE TO THE PUBLIC THAT HE OR SHE IS CERTIFIED OR A DIPLOMATE OR OTHERWISE SIMILARLY CREDENTIALLED IN AN AREA OF DENTISTRY NOT RECOGNIZED AS A SPECIALTY AREA BY THE AMERICAN DENTAL ASSOCIATION UNLESS:

1. THE ORGANIZATION GRANTING THE CREDENTIAL GRANTS CERTIFICATION OR DIPLOMATE STATUS BASED ON THE FOLLOWING: A) THE DENTIST'S SUCCESSFUL COMPLETION OF A FORMAL, FULL-TIME ADVANCED EDUCATION PROGRAM (GRADUATE OR POSTGRADUATE LEVEL) OF AT LEAST 12 MONTHS' DURATION; AND B) THE DENTIST'S TRAINING AND EXPERIENCE; AND C) SUCCESSFUL COMPLETION OF AN ORAL AND WRITTEN EXAMINATION BASED ON PSYCHOMETRIC PRINCIPLES; AND

2. THE ANNOUNCEMENT INCLUDES THE FOLLOWING LANGUAGE: [NAME OF ANNOUNCED AREA OF DENTAL PRACTICE] IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE AMERICAN DENTAL ASSOCIATION.

NOTHING IN THIS ADVISORY OPINION AFFECTS THE RIGHT OF A PROPERLY QUALIFIED DENTIST TO ANNOUNCE SPECIALIZATION IN AN ADA-RECOGNIZED SPECIALTY AREA(S) AS PROVIDED FOR UNDER SECTION 5.H OF THIS *CODE* OR THE RESPONSIBILITY OF SUCH DENTIST TO LIMIT HIS OR HER PRACTICE EXCLUSIVELY TO THE SPECIAL AREA(S) OF DENTAL PRACTICE ANNOUNCED. SPECIALISTS SHALL NOT ANNOUNCE THEIR CREDENTIALS IN A MANNER THAT IMPLIES SPECIALIZATION IN A NON-SPECIALTY INTEREST AREA.

Council Authority to Issue Advisory Opinions: The Council has the authority under the *ADA Bylaws* to issue advisory opinions that give guidance on how the Council would interpret the *ADA Code* if faced with a particular issue on appeal. As expressions of the Council's position, advisory opinions generally take effect as soon as they are adopted by the Council. However, because of the importance of this issue to the profession, the Council decided to circulate the advisory opinion in draft form to the communities of interest for comment. Based on the comments received, the Council made several changes in the advisory opinion before it was adopted in final form. This report provides information on the meaning of key terms and concepts used in the advisory opinion for the guidance of the membership and the constituent and component societies that may be called upon to enforce it.

Interpretation of Advisory Opinion 5.H.2:

What credentials are covered by the Advisory Opinion? The Advisory Opinion applies to any credential in a non-specialty interest area, including "certified," "accredited," "diplomat," "fellow" or "master." It does not apply to a statement of membership in an organization as long as the statement does not express or imply specialization or special qualifications which cannot be substantiated.

What effect will the Advisory Opinion have on the issuance of credentials by organizations in non-specialty interest areas? None. The Advisory Opinion does not control the granting of credentials. Its scope is limited solely to the announcement of credentials by ADA members.

What effect will the Advisory Opinion have on non-ADA members? The *ADA Code* governs the conduct of ADA members, who agree to abide by the *Code* as a condition of membership. Nonmembers have not made this commitment. However, the Advisory Opinion will provide guidance to nonmembers and can be of use to state dental boards as a model advertising rule.

What effect will the Advisory Opinion have on the scope of specialty practice? None. As stated in the *Code*, Section 5.H. ANNOUNCEMENT OF SPECIALIZATION AND

LIMITATION OF PRACTICE, under General Standard 2: “The scope of the individual specialist’s practice shall be governed by the educational standards for the specialty in which the specialist is announcing.” Nothing in the Advisory Opinion affects this standard.

Doesn’t the Advisory Opinion conflict with General Standard 3 on limitation of practice?
No. General Standard 3 states: “The practice carried on by dentists who announce as specialists shall be limited exclusively to the special area(s) of dental practice announced by the dentist.” Advisory Opinion 5.H.2 would only permit a specialist to announce credentials in a non-specialty interest area if the services covered by the interest area were within the scope of the specialist’s practice.

Why did the Council adopt a special advisory opinion for specialists? Although most of the issues involved in advertising non-specialty credentials are the same for specialists and general dentists, there are differences that warrant a separate advisory opinion. Advisory Opinion 5.I.1. GENERAL PRACTITIONER ANNOUNCEMENT OF CREDENTIALS requires the dentist to disclose that he or she is a general dentist. Clearly, this requirement is inapplicable to specialists. Advisory Opinion 5.H.2. SPECIALIST ANNOUNCEMENT OF CREDENTIALS IN NON-SPECIALTY INTEREST AREAS cautions specialists against making claims that might confuse the public about the difference between their specialty and non-specialty credentials. This caution has no relevance to general dentists.

What constitutes a “formal, full-time advanced education program of at least 12 months duration?” The Council will be guided by generally accepted educational standards in defining these terms. The Council’s intent in adopting the 12-month requirement was to specify a program of at least one academic year in length. The concept of an academic year is used in the ADA *Bylaws* to define a Student Member (Chapter I, Section 20.C). The length of the academic year is traditionally determined by the sponsoring institution. At the advanced dental education level, this is usually 12 months. It is understood that the program content will be primarily related to the non-specialty interest area.

“Formal” is another term that must be defined by reference to accepted usage in the educational community. The Commission on Dental Accreditation has taken the position that a “formal” advanced educational program is one beyond the predoctoral curriculum offered at the graduate or postgraduate level by an accredited institution of higher learning. The Council sees no reason at this time to use a different definition for purposes of this advisory opinion.

Could a specialist fulfill the formal, full-time advanced education requirement on a part-time basis? Yes, the Council believes that the requirement could be met on a part-time basis, so long as: 1) the educational experience, including clinical experiences and responsibilities, is the same as that required of the full-time program; and 2) there are an equivalent number of months spent in the program.

Will the ADA evaluate educational programs to ensure that they meet these standards? The ADA House of Delegates has from time to time considered proposals for the ADA to recognize credentialing bodies in non-specialty interest areas but opted not to pursue them. Advisory Opinion 5.H.2 does not rely on the existence of such a recognition program. Unless and until the House adopts such a program, the Council believes that decisions about whether a dentist meets the requirements set forth in Advisory Opinion 5.H.2 for announcement of credentials can be made on a case-by-case basis when a complaint is filed for an alleged violation of the Advisory Opinion.

Could a specialist meet the educational requirements of Advisory Opinion 5.H.2 based on his or her advanced specialty education program? The advisory opinion states that a credential may be based on advanced education at the graduate or post-graduate level. This requirement might be satisfied by an advanced specialty education program, as long as the program included formal, full-time education of at least 12 months' duration primarily related to the announced non-specialty interest area. Ultimately, it will be up to the body that grants the credential to decide whether a particular program satisfies the educational standards for the award of its credential. The Council will look to the credentialing body's educational standards to determine whether they satisfy 5.H.2.

What type of "training and experience" is required to announce the credential? The Council believes that this decision should be left to the credentialing body of the non-specialty interest area. As a rule of thumb, the experience requirements of the recognized specialty boards are at least equal in time to their educational requirements.

What are "psychometric principles" and who will decide if a particular examination is based on these principles? Psychometric principles are standards of test construction and administration assuring the reliability, validity and reproducibility of the examination results. These principles are set forth in *Standards for Educational and Psychological Testing* published by the American Educational Research Association, American Psychological Association and National Council on Measurement in Education.

Whether a particular examination is based on psychometric principles will be determined on a case-by-case basis by, in the first instance, the component or constituent society that investigates a complaint of an alleged violation of the Advisory Opinion and ultimately by CEBJA sitting as the highest level of appellate review in the tripartite system's disciplinary process. CEBJA will consult with the appropriate agencies of the ADA as necessary in making these determinations.

Will dentists who announced their credentials before the Advisory Opinion 5.H.2 was adopted be allowed to continue to do so, even if they do not meet the education, training, experience or testing requirements called for in the Advisory Opinion? The Advisory Opinion does not contain a "grandfather" provision that would waive any of the provisions of Advisory Opinion 5.H.2.

How prominent must the disclaimer required by the Advisory Opinion be? The disclaimer must be clear and visible compared to the announcement of the credential. Whether a particular disclaimer is clear and visible will be judged in the context of the advertisement as a whole, but, at minimum, the Council will require the disclaimer to be in the same font, size, style and color as the credential. The use of abbreviations to designate credentials shall be avoided when such use would lead the reasonable person to believe that the designation represents an academic degree, when such is not the case.

How will the Advisory Opinion be enforced? It will be enforced like any other part of the Code through the tripartite system's disciplinary process, which is spelled out in Chapter XII of the ADA Bylaws. The Council expects the constituent and component societies' hearing panels to take evidence on whether an accused member's advertisement meets the requirements of Advisory Opinion 5.H.2 and to base their findings on the evidence. The constituents and components are reminded that before a member can be disciplined, he or she is entitled to notice and a hearing conducted in accordance with Chapter XII, Section 20 of the ADA Bylaws.

How will dentists and other interested parties be informed of future Council interpretations of the Advisory Opinion? The Council has the option of adopting a supplemental report, which would be communicated to the profession and the communities of interest in the same manner as the original report. Interpretations of Council advisory opinions made in the context of disciplinary proceedings are routinely published in the Council's annual report to the House of Delegates.

Adopted August 17, 1998; Revised December 10, 1999