



## NEWFOUNDLAND & LABRADOR DENTAL BOARD

### BY-LAW # 5

**By-Law 5: \* DISCIPLINE**

- Professional Misconduct
- Conduct Unbecoming A Practitioner
- Professional Incompetence
- Incapacity or Unfitness To Practise
- Code of Ethics

#### INTERPRETATION

For the purposes of this By-Law,

- (a) "Act" means the Dental Act 2008;
- (b) "By-Laws" means by-laws made under section 10 of the Act;
- (c) "Board" or "NLDB" means the Newfoundland and Labrador Dental Board;
- (d) "Guideline" of the Board means a written expression by the Board of best practices in relation to a particular issue, which may have variable applicability to individual circumstances, as may be developed and updated from time to time;
- (e) "Practitioner" shall be deemed to include dentists and "professional dental corporations" as defined under the Act ;
- (f) "Patient" or "person" shall be deemed to include the authorized representative of that patient or person;
- (g) "Policy" of the Board means a written expression of the Board's position on the expected practice or expected conduct of a dental practitioner in relation to a particular issue, as may be developed and updated by the Board from time to time;
- (h) " Regulations" means regulations having effect under the Act.

The Board by its by-law authority, may amend this by-law following a 30 day notice to Board Members .

## DEFINITIONS

### **PROFESSIONAL MISCONDUCT**

Professional misconduct for the purposes of sections 26 to 42 of the Act shall include:

#### **Professional Misconduct: laws, regulations, by-laws, conditions applicable to practice**

1. Contravening the Act, Regulations, or By-Laws, including but without limiting the foregoing the Regulations regarding conflict of interest.
2. Contravening a federal, provincial or territorial law, a municipal by-law or by-law or a rule of a public hospital if,
  - (a) the purpose of the law, by-law or rule is to protect the health of the public, and
  - (b) the contravention is relevant to the practitioner's suitability to practice.

Being subjected to the withdrawal or restriction of rights or privileges under the Controlled Drugs and Substances Act (Canada) or the Food and Drugs Act (Canada), or under any successor legislation.

3. Contravening or failing to comply with a term, condition or limitation on a licence or registration with the Board.
4. Contravening or failing to comply with any term or condition of an Order made by an adjudication tribunal under sections 34 or 35 of the Act.

#### **Professional Misconduct: Practising while impaired or when found to be incapable or fit to practice**

1. Practising the profession while the practitioner's ability is impaired by drugs or alcohol.
2. Practising the profession during the period after the practitioner is notified by the Board that he or she has been found to be incapable or unfit to practice, and before the practitioner is notified by the Board that he or she may resume practice.

#### **Professional Misconduct: Standards of Practice**

1. Failing to maintain the generally accepted standards of practice expected of the profession in the branches of dentistry which the practitioner is practising, such as to indicate gross negligence or reckless disregard for the health and well-being of a patient.

### **Professional Misconduct : Prescribing**

1. Prescribing, dispensing or selling drugs for an improper purpose.(Article A14 of the Code).
2. Prescribing, dispensing, or selling drugs contrary to the Act, Regulations or By-Laws.
3. Prescribing to a patient without establishing an appropriate doctor-patient relationship.
4. Prescribing to a patient contrary to a policy or guideline of the Board or a guideline or standard generally accepted by the profession, as may be amended from time to time, and including but not limited to those outlined in Schedule "A" to this By-law, unless in the case of departure from the guideline it can be demonstrated by the practitioner that there was a reasonable basis for that departure.

### **Professional Misconduct: Responsibilities to Patients**

1. Discontinuing professional services that are needed by a patient unless,
  - (a) the patient requests the discontinuation,
  - (b) alternative professional services are arranged for the patient, or
  - (c) the patient is given a reasonable opportunity to arrange alternative professional services.
2. Discontinuing the practice of dentistry in the Province, or in a specific locality in the Province, without reasonable notice to patients and to the Board, and without making adequate provision for storage or transfer of dental records to ensure reasonable patient access.
3. Performing without consent a professional service for which consent is required by law.  
(See Article A5 of the Code of Ethics)
4. Giving information concerning the condition of a patient or any services rendered to a patient to a person other than the patient, except with the consent of the patient or as required by law or permitted by law. (Article A7 of the Code)
5. Failing to abide by the Code of Ethics in regard to this section.

### **Professional Misconduct: Responsibilities to the Profession**

1. Failing to abide by the Code of Ethics in this regard.
2. Failing to reveal the exact nature of a secret remedy or treatment used by a practitioner following a proper request to do so.

### **Professional Misconduct: Responsibilities to the Board**

1. Failing to respond appropriately or within a reasonable time to a written inquiry from the Board.
2. Contravening or failing to comply with a term or condition of an undertaking to or agreement with the Board.

### **Professional Misconduct: Misrepresentations**

1. Making a misrepresentation to the Board or a representative or agent of the Board.
2. Using a name other than the practitioner's name, or variation thereof accepted by the Board, as set out in the applicable register under the Act, in the course of providing or offering professional services.
3. Making a misrepresentation respecting a remedy, treatment or device.
4. Making a claim respecting the utility of a remedy, treatment, device or procedure other than a claim which can be supported as a reasonable professional opinion.

### **Professional Misconduct: Records and Documents**

1. Falsifying a record relating to the practitioner's practice.
2. Creating or altering a record relating to the practitioner's practice other than in a manner prescribed by these By-Laws.
3. Failing without reasonable cause to prepare a report or certificate relating to an examination or treatment by performed by the practitioner to the patient or the patient's authorized representative within 30 days after the patient or the patient's authorized representative has requested such a report or certificate.
4. Signing or issuing, in the practitioner's professional capacity, a document that the practitioner knows or ought to know is false or misleading.
5. Failing to make or maintain a record in accordance with any by-law or regulation of the Board.

### **Professional Misconduct: Fees**

1. Sharing fees with a person who has referred a patient or receiving fees from a person to whom a practitioner has referred a patient , or requesting or accepting a rebate or commission for the referral of a patient.

2. Charging a fee for services not performed.
3. Charging a fee that is excessive in relation to the services performed.
4. Failing to itemize an account for services if requested to do so by the patient or the person or agency who is to pay if the account includes a commercial laboratory fee.
5. Failing to issue a statement or receipt for fee for services to a patient or the person or agency who is to pay, in whole or in part, for services if requested by a patient, person or agency.
6. Failing to properly inform the patient or their guardian of the full extent of treatment advised and an accurate estimate of the total costs involved.

**Professional Misconduct: Impropriety, Abuse, or Sexual Misconduct in relation to a Patient**

1. Inappropriate comments or questions reflecting a lack of respect for patient's dignity or privacy.
2. Inappropriate examination procedures reflecting a lack of respect for patient's dignity or privacy.
3. Verbal abuse of a patient or of a patient's family in the dentist-patient context, including but not limited to physically intimidating or threatening language, and sustained use of insulting or demeaning language.
4. Physical abuse of a patient.
5. Sexual abuse of a patient.

**Professional Misconduct: General**

1. Permitting, counselling or assisting a person who is not a practitioner licensed by the Board to perform acts which should only be performed by a practitioner.

**Conduct Unbecoming A Practitioner**

The following acts are of conduct unbecoming a practitioner for the purposes of sections 26 to 42 of the Act:

- (a) An act or omission that, having regard to all the circumstances, would reasonably be regarded by practitioners as disgraceful, dishonourable or harmful to the standing or reputation of the dental profession.

- (b) Subject to sections 19 to 25 in the Act, permitting or acquiescing in any act or omission of a professional dental corporation which would be considered conduct unbecoming a practitioner if such act or omission were committed by a practitioner , while a shareholder, director, officer or employee of that corporation.
  
- (c ) Conviction of a criminal act that would easily be regarded by practitioners as disgraceful, dishonourable, or harmful to the standing or reputation of the dental profession .  
Persistent and egregious conduct towards professional colleagues which is contrary to the Code of Ethics.

### **PROFESSIONAL INCOMPETENCE**

Professional incompetence for the purposes of sections 26 to 42 of the Act means the demonstration by a practitioner’s care of one or more patient’s that he or she lacks skill or judgement, of a nature or to an extent that the practitioner is unfit to continue to practice, or that his or her practice should be restricted, or that the practitioner should comply with one or more remedial measures which may be ordered pursuant to sections 34 and 35 of the Act.

### **INCAPACITY OR UNFITNESS TO ENGAGE IN THE PRACTICE OF DENTISTRY**

Incapacity or fitness to practice dentistry for the purposes of sections 27 to 42 of the Act means a practitioner’s suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the practitioner no longer be permitted to practice or that his or her practice should be restricted. ( Article A3 Of the Code)

## **NEWFOUNDLAND AND LABRADOR DENTAL BOARD (NLDB)**

### **CODE OF ETHICS**

#### **Purpose, Authority, Accountability**

This Code of Ethics is a set of principles of professional conduct that governs all registered dentists (generalists and specialists) and establishes the expectations for dentists in fulfilling duties to their patients, to the public, and to the profession. This Code of Ethics affirms and clarifies principles that are definitive to professional and ethical dental care. For those about to enter the profession, this Code of Ethics identifies the basic moral and ethical commitments of dentists and will serve as a source for education and reflection. For those within the profession, this Code of Ethics provides public identification of the profession's ethical expectations of its registered dentists. Therefore, this Code of Ethics is also educational. It governs behaviour and expresses to the larger community the values and ideals that are espoused by the dental profession by reason of trust, commitment, and governance.

The Code of Ethics is an important part of the way in which the NLDB fulfills its obligation to promote and protect the public's interest. This Code of Ethics is binding on all registered dentists and violations may result in disciplinary action. The Code of Ethics, by its very nature, cannot be a complete articulation of all ethical obligations. In resolving ethical issues, dentists shall consider ethical principles, the patient's needs and interests, and all applicable laws.

The Code of Ethics that follows, sets forth the ethical duties that along with the Standards of Practice, are binding on registered dentists. Anyone who believes that a dentist has acted unethically or in an unskilled manner may bring the matter to the attention of the Registrar, to be dealt with in accordance with the Dental Act 2008 and its provisions.

#### **PRINCIPLES**

This Code of Ethics contains mandatory requirements for dentists and expresses the values shared by the dentists and the dental profession of Newfoundland and Labrador. The Principles of Ethics are the goals to which every dentist of the profession must aspire. There are five fundamental principles that form the foundation of the NLDB Code of Ethics. These are:

##### **1. Patient Autonomy and Informed Choice**

Dentists have a duty to assess and inform the patient of the nature of the condition requiring potential treatment, the treatment and non-treatment options available including the advantages, disadvantages and the potential significant risks and costs of these options and whether it is appropriate to consider referral to a specialist. The patient makes the final decision on the choice of treatment, and on choice of practitioner to provide any treatment, (generalist or specialist), or to follow-up after referral or second opinion.

## **2. Non maleficence ( do no harm)**

Dental treatment shall expressly be intended to not leave the patient in a worse state than if no treatment had been provided. It is that such state may inadvertently arise due to unanticipated or uncontrollable circumstances, regardless of that intention. Should harm to the patient occur, the dentist shall disclose it to the patient.

## **3. Beneficence**

Dental treatment shall expressly be intended to result in an improvement or maintenance of the patient's condition. The ultimate goal of treatment shall be to optimize oral function and /or appearance for the patient. It is acknowledged that the achievement of this goal will be influenced by variables such as the patient's age , general health, underlying anatomy, previous treatment, pre-existing conditions, and compliance with oral hygiene and other instructions . A dentist has the responsibility to provide a high standard of professional services and is accountable for the intended benefit and outcome of any treatment regardless of whether the treatment is medically necessary, or for structural, functional, cosmetic/aesthetic, preventive or health promotion purposes.

## **4. Competence**

The dentist's primary obligation is to provide service to patients through the delivery of quality care in a competent and timely fashion. It is acknowledged that under certain circumstances beyond the dentist's control, access to resources may affect the timeliness of care delivery. Dentists have a duty to apply the knowledge, skills, attitudes and judgments necessary to perform competently in the provision of all patient assessments and services , in accordance with currently accepted professional standards.

## **5. Veracity**

A dentist must obtain informed consent from his or her patient prior to conducting any treatment. The dentist must be truthful and forthright in all professional matters. This means fully disclosing and not misrepresenting information in dealings with patients, the public at large on dental matters, other professionals, and the NLDB.

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## **RESPONSIBILITIES TO PATIENTS**

### **Article A1: Service**

As a primary health care provider, a dentist's first responsibility is a duty of care to the patient. As such, the competent and timely delivery of safe care appropriate to the presenting clinical circumstances and services sought by the patient shall be the most important aspect of that responsibility.

### **Article A2: Current/Continued Competence**

The privilege of dentists to be accorded professional status rests primarily in the knowledge, skill, attitude and judgment with which they serve their patients and society. All dentists, therefore, must keep their knowledge of dentistry current and must provide treatment in accordance with currently accepted professional standards. Dentists have an obligation to maintain competence throughout their career.

### **Article A3: Fitness to Practice / Incapacity**

A dentist may experience medical or behavioural impediments to competence. A dentist shall inform the Board when a serious injury, a medical condition, infection or any other condition has either immediately affected, or may affect over time, his or her ability to practice safely and competently. It is unethical for a dentist to practice while using controlled substances, alcohol or chemical agents that impair their ability to practice. A dentist has an ethical obligation to urge impaired colleagues to seek treatment. A dentist with first-hand knowledge that a colleague is practising dentistry when so impaired has an ethical responsibility to report such information to the NLDB. In this Article the term "infection" includes, but is not limited to, HIV/AIDS, Hepatitis B, and Hepatitis C.

### **Article A4: Competence, Consultation & Referral**

A dentist shall provide assessment and/or treatment for a patient only when currently competent to do so by reason of his or her education and training, experience, or other demonstrated continued competence; otherwise the dentist should consult with another dentist or dental specialist with the appropriate competencies and/or refer the patient to an appropriate care provider for assessment and/or treatment.

### **Article A5: INFORMED CHOICE of & CONSENT FOR TREATMENT**

A dentist must discuss treatment and non-treatment recommendations with the patient including benefits, prognosis and significant risks of doing or not doing treatment as well as reasonable alternatives and associated costs in order to allow the patient to make an informed choice. Dentists who misrepresent unnecessary dental procedures as necessary and recommend or perform unnecessary services on this basis are engaged in unethical conduct. A dentist shall also inform the patient if any proposed oral health care involves treatment techniques and/or products that are not generally recognized or accepted by the dental profession. The dentist has the right to refuse to provide treatment that is not generally recognized or accepted by the profession even when requested to do so by the patient.

Informed choice implies that a dentist fully informs the patient of the above before obtaining informed consent for providing the services selected by the patient.

#### **Article A6: Provision of Full and Accurate Information**

A dentist is obligated to provide to the patient a full and accurate comment and opinion concerning their oral health. When giving a second opinion, dentists must ensure that they have the necessary information to give an opinion that can fully inform patient choice. Dentists must fully inform patients of their opinion of assessment and treatment options, even if that opinion differs or disagrees with an opinion given by another dentist. When disagreeing with the opinion or treatment of another dentist or health professional, the dentist shall do so respectfully avoiding disparaging remarks.

#### **Article A7: Confidentiality and Release of Patient Information**

Patient Information, verbally, written or electronically acquired and kept by the dentist, shall be kept in strict confidence except as required by law or as authorized by the patient. The information in dental records or reports must be released to the patient or to whomever the patient directs, including other professionals and dental plan carriers, when authorized by the patient. This obligation exists regardless of the state of the patient's account.

An authorization by a patient allowing a dentist to provide information to a dental plan carrier or another third party is acceptable. A separate authorization is not required for each release of information provided the information is shared for the purposes described in the authorization and the authorization allows the releases of information on an ongoing basis.

#### **Article A8: Outcomes and Patient Expectations**

A dentist, in the process of obtaining informed consent, should provide the patient with reasonable expectations respecting the potential outcome of care.

A dentist must not, either by statement or implication, guarantee or make unsupportable statements as to the likely success of appliances, products, procedures or treatments for a patient.

A dentist should discuss with the patient what reasonable expectations the patient may have respecting the duration and durability of those appliances, products, procedures or treatments to be provided to that particular patient.

A dentist should discuss with the patient when and under what circumstances the patient can reasonably be expected to be held financially responsible for ongoing maintenance, repairs, revisions, replacement and re-performance of professional services involving said appliances, products, procedures, or treatments.

A dentist should document references to these discussions in the patient's ongoing care record.

#### **Article A9: Emergencies**

A dental emergency exists if, in the professional judgment of the dentist being solicited to provide care, it is determined that a person needs immediate attention to relieve pain, or to control infection or

bleeding that is threatening to life, oral cavity structure, or function. Dentists have an obligation to provide immediate care and to consult and /or refer if necessary in a dental emergency or, if available, to make alternative arrangements for the patient. Beyond offering adequate follow-up by direct service or referral, such emergency intervention does not bind dentists to future treatment of emergency patients.

#### **Article A10: Provision of Care**

A dentist shall not discriminate against or refuse to treat patients in a manner that is contrary to applicable human rights laws. This includes, but is not limited to, refusal to treat a patient based on HIV/AIDS or Hepatitis status or any other condition defined as a disability by human rights legislation. Other than in an emergency situation, a dentist has the right to refuse to accept an individual as a patient.

#### **Article A11: Arrangements for Continuity of Care**

A dentist having undertaken the care of a patient shall not discontinue that care without first having given sufficient notice of that intention to the patient, and shall endeavour to arrange for continuity of care with another dentist. Where there has been a breakdown in the relationship between the dentist and the patient, the dentist has an obligation to transfer appropriate records to the care provider who will be assuming the ongoing care of the patient. In the event of referrals, both referring and consulting dentists should ensure the patient understands the importance of continuity of care with either or both of the respective dentists.

A dentist who has provided dental care, especially care that is of an extensive or invasive nature, has the obligation to provide direct availability for the patient to contact the care provider “after hours “. This “on call” or “after hours” obligation, if transferred to other professionals, must be done so with a formal agreement established through direct personal contact between the parties receiving such care. Failure to do so, breaches the dentist’s obligations to provide continuity of care.

#### **Article A12: Assignment of Duties**

A dentist may assign duties to those under his or her supervision in compliance with any applicable laws, ethical principles and standards of practice . In doing so, the dentist must be satisfied with the competencies and abilities of the person(s) to whom duties are assigned, and must provide appropriate supervision. A dentist’s ultimate responsibility to his or her patient is not affected by the assignment of duties.

#### **Article A13: Reporting Suspected Child Abuse**

A dentist is obliged to become familiar with the signs of child abuse and to report suspected assurances of child abuse to the authorities in compliance with the laws of Newfoundland and Labrador.

#### **Article A14: Prescribing Drugs for Self and Family**

A dentist must not prescribe drugs for themselves. Dentists may prescribe drugs for family members only when indicated specifically for dental issues.

### **Article A15: Product Marketing in the Dental Office**

A dentist who sells or markets dental products to the patients must :

- Ensure that they do not exploit the trust inherent in the dentist-patient relationship
- Not misrepresent or exaggerate the value of the products
- Verify that the claims about the efficacy of the dental products being made by the manufacturers or distributors of the product are founded on accepted scientific knowledge and research, and
- Make available to patients all information necessary for the patients to make an informed choice as to whether to purchase the products, including whether the product is available elsewhere and whether there are financial incentives for the dentist to sell the product which would not be evident to the patient.

### **Article A16: Disclosure of Potential Conflict of Interest**

A dentist who refers a patient to a laboratory, radiological, diagnostic or other professional service facilities, separate and apart from the dentist's office, and who has a direct or indirect financial interest in such facilities, shall disclose that interest to their patients in advance of such a referral.

### **Article A17: Referral to Another Oral Health Care Professional**

A dentist who refers patients to another oral health care professional or other professional must do so with a proper referral form; with appropriate history and other required information causing the referral.

## **RESPONSIBILITIES TO THE PUBLIC**

### **Article B1: Representations of Qualifications, Experience, and Registration**

A dentist shall represent himself or herself in a manner that contributes to the public's trust and confidence in the profession. A dentist shall not represent his or her education, qualifications or competence in any way that would be false or misleading.

### **Article B2: Contractual Services/Practice Arrangements**

A dentist , by entering into a contract with an organization or other party involving the practice of dentistry, neither reduces personal professional responsibilities nor transfers any part of those ethical or legal responsibilities to that organization or party. A dentist may enter into an agreement with individuals and/or organizations to provide dental care and services provided that the agreement is not contrary to the Dental Act 2008 and the regulations , by-laws, Code of Ethics, or standards of practice of the NLDB.

### **Article B3: Choice of Dentist**

A dentist shall, at all times, respect and support the public's right to choose one's own dentist.

#### **Article B4: Advertising and Promotional Activities**

No dentist shall engage or be included in advertising or any form of promotional activity including all electronic advertising, which:

- a) is false, misleading, deceptive, ambiguous or fraudulent;
- b) may create unreasonable expectations in a patient or potential patient about the results that dentists, or the procedures they perform, can achieve;
- c) is incapable of objective verification;
- d) makes claims that the services are superior in quality to other dentists;
- e) expressly claims or implies that a dentist is a specialist, or has specialist training ,unless the dentist is registered in a speciality recognized by the NLDB;
- f) tends to harm the dignity and honour of the profession; or publicizes one or more of his or her own services when making comment on an issue to any media .

Dentists involved in promotions indicating that the dentist/dental office will make a donation to a charity for a dental service provided must fully disclose the details of the charitable arrangement including how much money is being donated by the dentist/dental office, the time frame of the promotion, whether a donation is being made for every patient who receives the dental service and who gets the tax deductible receipt.

Dentists shall not use coupons or time limited discounts as promotional material.

[the courts have found that coupons do not convey thoughts, beliefs, opinions or expressions of the heart or the mind and are not protected by Charter 2(b).]

#### **Article B4.1: False, Misleading or Deceptive**

In all advertising and promotional activities, statements must be avoided which:

- a) contain a misrepresentation of fact;
- b) omit a fact necessary to make the statement when considered as a whole not misleading.

Statements will be evaluated on a case-by-case basis, considering how patients are likely to respond to the impression made by the advertisement as a whole. The issue is whether the advertisement, taken as a whole, is false or misleading.

#### **Article B4.2: Objectively Verifiable**

In all advertising and promotional activities, a dentist is not to make statements that are not objectively verifiable. Subjective statements about the quality of dental services and/or patient care raise ethical concerns. Objectively verifiable means “ CAPABLE OF BEING PROVEN BY FACTS INDEPENDENT OF PERSONAL FEELINGS, BELIEFS, OPINIONS, OR INTERPRETATIONS”.

Expressed or implied representations that the advertised or promoted services are superior in quality to those provided by other dentists are not objectively verifiable. In particular, patients may misinterpret statements of opinion as implied statements of fact. The ONUS IS ON THE DENTIST to be able to provide on request, objective verification of any statements in advertising or promotional activities. A dentist

shall not utilize advertising or promotional activities to PUBLICIZE the EQUIPMENT, MATERIAL, or TECHNIQUES used in their dental practice if the advertisement or promotional activity expressly represents or implies that such equipment, materials, or techniques are superior in quality to those of other dentists, or implies that superior results are achievable or that superior dental care is provided.

#### **Article B4.3: Articles and Newsletters**

If a dental health article, message or newsletter is published or electronically communicated under a dentist's name to the public without making truthful disclosure of the source and authorship, then the dentist is involved in making a false, misleading or deceptive representation to the public. Dentists must also ensure that such information does not give rise to unreasonable expectations for the purpose of inducing the public to utilize the services of the dentist (or third party) distributing the communication.

#### **Article B4.4: Name of Practice and Trade Names**

Since the name under which a dentist conducts his or her practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is misleading or which may create unreasonable expectations is prohibited. The use of trade names is considered to be a form of advertising or promotional activity and as a result trade names must comply with all the provisions in the Code of Ethics of the NLDB applicable to advertising and promotional activities.

A dentist shall not adopt or use a trade name for a dental practice unless the NLDB has approved the trade name. This requirement does not apply to trade names in use prior to the effective date of this provision which shall be established by a resolution of the NLDB. However, all trade names, whether or not required to be approved by the NLDB must comply with all other requirements of the Code of Ethics of the NLDB. For example, a dentist using a trade name that did not require pre-approval but which is misleading, implies superiority, or implies a non-existent speciality would still be breaching the Code of Ethics of the NLDB.

Any advertising or promotional activities that use a trade name for a dental practice must include the names of the individual dentists at the dental practice. This requirement applies to all dental practices that use a trade name regardless of whether the trade name was required to be approved by the NLDB.

#### **Article B4.5: Dentists Departing a Practice**

The use by a practice of the name of a dentist who is no longer actively associated with said practice may be continued for a period of time not to exceed one year. Dentists departing a practice who authorize continued use of their name should receive competent advice on the legal implications of this action. With the permission of a departing dentist, the departing dentist's name may be used for more than one year if after one year grace period prominent notice is provided to the public through such mediums as a sign at the office and a short statement on stationary and business cards that the departed dentist is no longer associated with the practice.

This does not authorize the practice or other dentists associated with the practice to bill under the name of the dentist who has departed the practice.

#### **Article B4.6: Courses and Certificates**

A dentist may advertise only that he or she has obtained a DDS degree, a DMD degree, BDS degree or other University or College degree such as a dental specialty recognized by the NLDB. No other courses and programs or awards can be utilized in advertising and promotional activities by or for or including any dentist(s) or dentist(s) name(s); all such advertising activities is the responsibility of the dentist(s) who must ensure that it complies with the Code of Ethics of the NLDB.

#### **Article B4.7: Use of Titles and Announcement of Specialization**

The provisions in this section are designed to help the public to make a clear distinction and an informed selection between a practitioner who has achieved specialty status and general practitioners. All dentists licensed by the NLDB may use the title Doctor, Dr. and Dentist. However, only those dentists who are expressly authorized by the NLDB may use any titles that imply specialty status including, but not limited to the following recognized titles for specialty areas of dental practice:

- (a) Endodontist;
- (b) Oral and Maxillofacial Surgeon;
- (c ) Orthodontist and Dentofacial Orthopedist;
- (d) Pediatric Dentist;
- (e) Periodontist;
- (f) Prosthodontist;
- (g) Oral and Maxillofacial Radiologist;
- (h) Public Health Dentist;
- (i) Dental Anesthetist.

A dentist must ensure that he or she only uses titles if he or she is authorized to do so by the NLDB. A dentist must not do anything which would lead the public to believe that specialty services are being rendered by a qualified specialist in the dental office when such is not the case.

Other than fellowships recognized by the NLDB, a dentist using the attainment of a fellowship in a direct advertisement to the public is making a representation which is misleading and deceptive. Such use of fellowship status is misleading because of the likelihood that it will indicate to the patient the attainment of a specialty status . However, when such use does not conflict with the above principles or the law, the attainment of fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms and letterhead and stationary which is not used for the direct solicitation of patients.

In advertising and promotional activities, a dentist shall not refer to any fellowships except for fellowships in specialties recognized by the NLDB.

A specialist may use advertisements and promotional activities that indicate that they are a specialist in an area recognized by the NLDB. However, a specialist must ensure that any advertisements or promotional activities do not expressly represent or imply they are specialists in areas not recognized by the NLDB.

If a general practitioner is practicing in association with one or more specialists, then it is the duty of both the specialist(s) and the general practitioner to inform the patients that this dentist is a general practitioner.

#### **Article B4.8: General Practitioner Announcement of Services**

A general dentist who wishes to announce, advertise, or promote the services available in their practice are permitted to announce the availability of those services so long as he/she avoids any communications that express or imply specialization. General dentists shall also clearly state that the services are being provided by a general practitioner. In any advertising or promotional activity for services to be provided by a general dentist, a statement that the services are provided by a general dentist must be included. A general dentist may not expressly represent or imply to the public that he/she is certified or specialized in an area of dentistry not recognized as a specialty by the NLDB.

#### **Article B5 : Fees and Compensation for Services**

A dentist is responsible for establishing fees for professional services performed for his or her own practice. Any fee advertising by a dentist shall be intended primarily to provide information to their patients.

While a dentist is entitled to reasonable compensation for services performed, a dentist shall not enter into an arrangement whereby the referral of patients results in a fee paid, a commission, a discount or other consideration to the dentist or another party.

#### **Article B6 : Dental Plans and Third Party Carriers**

A dentist who submits a claim form to a third party reporting incorrect treatment dates, procedure codes, and/or fees charged is engaging in inappropriate billing and unethical practice. If a patient has dental benefits through a third party provider, it is also the patient's right to have alternative treatment options explained regardless of costs or coverage. This means that a dentist shall explain alternative treatment options, regardless of what the patient's insurance plan or third party carrier will pay for. The dentist is obligated to inform a patient of the benefits, risks, disadvantages and costs of alternative dental treatment options.

A dentist must ensure that claims made to a third party carrier for patient care are accurate statements of the services rendered and fees charged to the patients. A dentist must not determine or direct a patient's treatment decisions based primarily on the existence or non-existence of a third party dental plan.

If the patient's third party carrier plan specifies a co-payment from the patient, the dentist providing the services for the patient must, under the conditions of the plan, engage in usual and customary business practices to collect such co-payments from the patient. A dentist is prohibited from accepting an amount in full payment of an account or charge that is less than the full amount of the account or charge submitted by the dentist to a third party payer. For example, if a dentist assesses a fee of \$100.00 for a dental service and the third party carrier pays 80%, if the dentist has no intention of collecting the \$20 from the patient and waives the payment of the \$20, this is considered to be misleading the insurance company since the actual fee for the service to the patient was \$80 and not \$100.

## **RESPONSIBILITIES TO THE PROFESSION**

### **Article C1: Support of Self-Regulation of the Profession**

The Legislature has granted the dental profession the privilege of self-regulation for the purpose of protecting the public and promoting the public interest. This responsibility is borne by dentists, and governed on their behalf by the NLDB and its (officers and committees) A dentist has an obligation to participate in the protection of the public and promotion of the public trust of dentists with the NLDB, thereby increasing the public trust of dentists, and strengthening the profession.

### **Article C2: Co-operation with the NLDB**

All dentists must co-operate with the requests of the NLDB, its officials and committees, to enable them to fulfill their legislated responsibilities.

### **Article C3: Unprofessional Conduct**

If a dentist has reasonable grounds to believe that another dentist has engaged in unprofessional conduct, including breach of this Code of Ethics, then the dentist has an obligation to report to the Registrar of NLDB.

### **Article C4: NLDB Official Spokespersons**

The official spokespersons for the NLDB shall be: the Registrar, the Chairperson, or those other spokespersons that they may designate. As such, they are the only individuals authorized to communicate with the press and broadcasting media on legal, policy and organizational matters relating to the NLDB.