

Ethical Advertising consultation

Purpose of paper	For action
Mission statement/business plan	To protect the public interest by ensuring that dental patients and prospective patients are not misled.
Issues	To provide guidance on ethical advertising and use of titles.
Recommendations	The Council is asked to approve for consultation the guidance at Annex A See paragraph 13
Authorship and origins of paper	Tom Peplow, Standards Policy Officer
Presentation to committee	David Smith, Chair of Standards
Further information	Tom Peplow, Standards Policy Officer TPeplow@gdc-uk.org T: +44 (0)20 7009 2702

Introduction

1. This paper concerns the need for clear guidance around the promotion of services and use of titles, descriptions and qualifications by dental professionals. Previously this has been linked to the registration of additional qualifications and this has now been separated from that piece of work.
2. The Standards Committee has approved for consultation the draft document attached at **Annex A**; this document seeks the Council's approval for wider consultation to allow relevant groups, organisations and individuals to comment directly on the proposed guidance and any statements in it that they have particular concerns over. Council will then be asked to approve a final version of the guidance before it is published.
3. There is a distinct need for clearer guidance in this area. Research has shown that certain titles and terms carry with them expectations to patients which may not be justified. The ethical guidance, 'Standards for dental professionals', requires dental professionals to not make any claims which could mislead patients and this covers but is not limited to promotion of services, the use of titles, descriptions and qualifications.
4. All registrant groups are required to follow this ethical guidance. However, in addition, the Dentists Act 1984 makes express provision regarding the use of titles, descriptions and qualifications by dentists and dental care professionals (DCPs). It is an offence for a dentist or DCP to use any title or description 'reasonably calculated' to suggest that they have a professional status or qualification other than one which is indicated against their name in the register. Commission of the offence is punishable by a fine. The GDC does not in practice ordinarily prosecute under this express provision. Instead, cases alleging misuse of titles, descriptions or qualifications by dentists or DCPs are normally dealt with, like other cases, via the fitness to practise process.
5. The current lack of clear guidance means that the Fitness to Practise team deals with a high number of complaints about advertising without clearer guidance to assess these complaints against. Of the cases received between 28 April 2009 and 27 April 2010 - 10.76%¹ concerned advertising.
6. In addition to meaning that some patients are being misled by inappropriate advertising, the lack of clear guidance also means that some registrants are being made the subject of unnecessary complaints. In turn this puts additional strain on an already heavy caseload in Fitness to Practise.

Discussion

7. The guidance focuses on five key areas requiring ethical guidance on advertising.
 - a. Additional qualifications – research has indicated that there is a need for clearer direction on the use of qualifications by registrants. Information given in this area often being unclear to patients. The registration of additional qualifications by the GDC is being considered in a separate paper to Council.
 - b. Use of specialist titles - cases of alleged misleading claims are regularly brought to the GDC which relate, in the main, to the use of descriptions

¹ These figures come from the Fitness to Practise team who warn that they are only indicative due to current reporting problems.

implying specialist status, where the individuals concerned are not on our specialist lists (e.g. advertising oneself as specialising in orthodontics), or where there is no specialist list for the subject concerned (e.g. calling oneself a specialist in implantology, or cosmetic dentistry). Due to the use of the term 'special interest' in the NHS, this is an area of the guidance that will require input from the Department of Health. The specialist lists are discussed in detail in a separate paper to Council.

- c. Dental appliances – concerns are also regularly brought to the GDC regarding advertisement of direct treatment by technicians or clinical dental technicians (e.g. advertising the construction of dental appliances without mention of the need to see a dentist first).
 - d. Advertising services and websites – there can be seen to be some ambiguity in the interpretation of the ethical principle in the Standards guidance 'Do not make claims which could mislead patients', further clarification on how this affects the promotion of registrants' services is therefore required. This is important not only in ensuring there are clear guidelines which registrants understand should be followed, but that they will be held accountable to.
8. Further information on these key areas is provided in **Annex B**.

Equality and Diversity Implications

9. The guidance would apply to all registrants.

Communications Implications

10. In the short term, we would need to publicise the consultation on draft guidance, this will also help when raising awareness of the final guidance. In the longer term, guidance would need to be published, added to the website and supported by a communications strategy. A guidance sheet (as opposed to a booklet) would be sufficient.

Standards Implications

11. Covered in the body of the paper.

Resource Implications

12. Staff time associated with managing the consultation and implementing the communications plan are within available resources.

Recommendations

13. The Council is asked to **approve** for consultation the guidance at **Annex A**

Principles of Ethical Advertising

When placing advertisements for services you provide as a registrant you must ensure that you adhere to the Council's ethical guidance *Standards for Dental Professionals*. Three of the most relevant principles of this guidance in relation to advertising are:

- 1.3** Work within your knowledge, professional competence and physical abilities
- 1.10** Do not make any claims which could mislead patients
- 6.1** Justify the trust that your patients, the public and your colleagues have in you by always acting honestly and fairly

All information or publicity material regarding dental services should be legal, decent, honest and truthful.

Advertising by dental professionals can be a source of information to help patients make informed choices about their dental care. But advertising that is either false, misleading or has the potential to mislead patients is irresponsible.

Patients may be confused and uncertain about dental services, and this means that you should take special care when explaining your services to them. Do not exploit the trust, vulnerability or relative lack of knowledge of your patients.

Misleading claims can make it more difficult for patients to choose a dental professional or dental services, and this can lead to expectations which cannot be fulfilled, and in more serious cases can put patients at risk of harm from an inappropriate choice.

If you make misleading claims, you may have to justify your decisions to the GDC through our fitness to practise procedures.

Additional Qualifications

Patients may believe that qualifications listed in an advertisement for dental services, or on a practice plate or practice literature, have some bearing on the dental professional's ability to provide dental care.

Your patients will generally know much less about the qualifications and skills of dental professionals than those who practise in the profession. The use of qualifications in advertising for dental services can be misleading if it implies that the dental professional:

- a. has a specialist status they do not in fact possess, i.e. either:
 - o implies that the individual is on our specialist lists when they are not; or
 - o implies that the individual is a specialist in an area not in fact covered by specialist listing (e.g. implantology, cosmetic dentistry)
- b. has a skill, or level of skill in a particular area, that the dental professional does not in fact possess

Patients can check whether or not their dental professional is registered, and also whether or not they are a specialist on one or more of our specialist lists, but they will be more likely to rely on information you provide in your practice e.g. certificates on the wall, practice leaflets.

The onus is on you to be honest in your presentation of your skills and qualifications. For example, if you have undertaken a weekend course in implantology, can you really say that you are a 'qualified implantologist'? Would you be able to justify this to a fitness to practise panel if something went wrong?

Patients may reasonably believe that if you put a qualification after your name, it has been 'earned', that is, it represents a minimum level of academic achievement. This will not be the case where a degree is honorary.

Listing memberships or fellowships of professional associations and societies can also mislead, where payment of a subscription is all that is required, because the letters may indicate to the public attainment of skill in the field of dentistry. Generally, the use of honorary degrees, memberships and fellowships should be limited to materials not related to marketing your services to patients e.g. scientific papers and curriculum vitae.

Patients may also believe that a qualification suggests the attainment of specialist status. We hold lists of specialists, and dentists not on those lists should take care to avoid giving the impression of specialist status (even in an area where there is currently no specialist list).

The Use of Specialist Titles

Specialist Titles for Dentists

Specialist expertise is indicated by the presence of a dentist's name on our specialist lists. Dentists who imply that they have specialist expertise in an area for which they are not on our specialist lists, or which is not covered by our specialist lists, are misleading patients.

You are entitled to call yourself an orthodontist for example, but you could not say you have a special interest in orthodontics as this implies you are on the specialist list.

Specialist Titles for Dental Care Professionals (DCPs)

There are currently no specialist lists for DCPs. DCPs should therefore ensure that they do not mislead patients by claiming a specialist status which cannot be supported.

Dental appliances

Dental technicians or clinical dental technicians advertising the provision of dental appliances should make it clear that patients need to see a dentist before seeing them.

The only exceptions to this are – the repair of dentures direct to members of the public or, for clinical dental technicians, the provision of complete dentures to patients with no natural teeth or implants.

Advertising services

Whenever you or your practice, produce any information containing your name you have an obligation to assure its accuracy. You should:

- i. ensure information is current and accurate
- ii. use clear language that patients understand
- iii. back up claims with facts
- iv. avoid ambiguous statements
- v. avoid statements or claims intended or likely to create an unjustified expectation about the results you can achieve

Do not abuse your position as a dental professional by endorsing medicines, oral health products or devices for financial gain. Recommend products only if they are the best way to meet a patient's needs.

If you offer services which your training as a dental care professional does not qualify you to provide, make sure you are appropriately trained and competent to undertake them, and do not mislead patients into believing that you are trained and competent to provide other services purely by virtue of your primary qualification as a healthcare professional.

Websites

For all dental professionals providing dental care mentioned on the site:

- i. their professional qualification and the country from which that qualification is derived must be displayed along with
- ii. GDC registration number, with the GDC address and other contact details, or a link to the GDC website

A dental website must display the following information:

- i. the name and geographic address at which the dental service is established
- ii. contact details of the dental service, including e-mail address and telephone number (it may also provide a fax number)
- iii. the date it was last updated
- iv. information held on the website must be updated within one month of any changes to it

Further information

The Council of European Dentists' (CED) EU Manual of Dental Practice contains extensive information on oral health systems as well as legal and ethical regulations across the EU. In particular this includes the Code of Ethics for Dentists in the EU for Electronic Commerce which covers the content of websites.

The manual can be downloaded from their website - www.eudental.eu

Additional Qualifications

14. The GDC commissioned qualitative research from the Electoral Reform Services, which was conducted in April and May 2008. Six focus groups were conducted (in Cardiff, Glasgow and Watford) using three different age groups of members of the public who had visited a dentist in the last five years. Respondents represented a broad cross-section of dental patients.
15. The key findings from this piece of research relevant to additional qualifications are in summary, as follows:
 - a. There was a universal expectation that all dentists would be qualified, though patients had very little knowledge about what qualifications they actually had to possess;
 - b. It had not occurred to patients to make any check on their dentists or to ask for any verification of their qualifications;
 - c. There was little awareness of the GDC register. When shown entries from the register attitudes were negative – most found it hard to understand and lacking in information that was meaningful to them (it gave no indication of what a dentist was like in person, which was their key concern);
 - d. They did not understand the qualifications and acronyms on the register. Due to their lack of understanding of even the BDS, most tended to assume that the dentists with the most letters in their entry must be the best qualified.
 - e. Whilst they felt the register should be publicly available, they were unsure if they would ever consult it.

Specialist titles

16. In June 2009, the GDC commissioned a piece of quantitative research, from DJS, specifically aimed at the issue of patient and public understanding of dental professionals' use of titles and descriptions. DJS Research carried out a survey with a representative sample of 1,089 members of the general public across England, Scotland, Wales and Northern Ireland.
17. The key findings from this piece of research relevant to specialist titles are in summary, as follows:
 - a. They were aware of orthodontists, but generally thought it was their dentist's responsibility to refer them to an appropriate specialist.
 - b. The majority of those who had visited a dental specialist had been referred by their own dentist or a hospital dentist. One in ten said that they had approached a specialist themselves, and 28 per cent said that they would consider searching for a specialist themselves, with that figure being higher for individuals who were not currently registered with a dentist. Patients relied on the referring dentist's description of the individual they were being referred to as a specialist;
 - c. 'Specialist' was a meaningful term to members of the public, but they were not entirely clear what was intended by the GDC's use of that title;
 - d. A significant number thought that 'specialist' just meant that the dental professional worked mainly in a particular type of dentistry;
 - e. 'Specialist sounding' titles or descriptions could make the public perceive a dentist to be a specialist as much as or more than actual use of the word 'specialist';

- f. A clear majority (91 per cent) said that they were concerned about someone practising dentistry describing themselves as a specialist if they had not had training approved by the GDC, on the grounds that it was misleading, and/or that the dentist may not be properly qualified;
- 18. These two pieces of research suggest a concern, among the members of the public that took part in the research, about the potential for being misled by dental professionals' descriptions of themselves and their services.
- 19. The consultation will be used to gather views on dentists' entitlement to call themselves for example an orthodontist, while not being able to say that they have a special interest in orthodontics, as this implies that they are on the specialist list. Some people find this point controversial and it will be highlighted in the consultation. Due to the use of the term 'special interest' in the NHS, questions on this section will be specifically raised with the Chief Dental Officers in the four countries.

Dental Appliances

- 20. The Scope of Practice document makes it clear that dental technicians do not carry out independent clinical examination and make dental devices to a prescription from a dentist or clinical dental technician. They can only repair dentures direct to the public. Clinical dental technicians can carry out clinical examinations and provide complete dentures direct to patients. However, patients with natural teeth or implants must still see a dentist first.
- 21. Dental technology professionals and professional associations have raised a number of concerns over advertisements by manufacturers of dental appliances who claim to provide dental appliances directly to patients. The concerns being that the advertisements make no reference to the need for a treatment plan or prescription to be written by a dentist following an initial clinical examination.

Advertising services and websites

- 22. A large part of the Council's Fitness to Practise work concerns complaints made about the advertising used by registrants. Of the cases received between 28 April 2009 and 27 April 2010 - 10.76%² concerned advertising. The complaints focus around the claims made by registrants regarding their training, qualifications, and use of titles. Generally these are to do with a lack of explanation of the claims made in promotion of services, or inappropriate terms used when describing a restriction in the area practised in.
- 23. Guidance on the information to be included in dental websites has not previously been specifically provided by the Council. Additional guidance has been available from the EU Manual of Dental Practice, commissioned by the Council of European Dentists, and some information suggested in this document has been included in the draft ethical advertising guidance, along with a reference to the document.
- 24. The provision of guidance in the area of advertising dental services and websites should provide registrants with a clearer understanding of the areas that the public require clarification on in order to make informed decisions about their dental care. This will also be of assistance in the Fitness to Practise process, when assessing whether a registrant has or has not been clear in the information used in the promotion of their dental services.

² These figures come from the Fitness to Practise team who warn that they are only indicative due to current reporting problems.