




**Alabama State Board of Podiatry**  
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Memorandum

TO: Active Alabama DPMs and Potential Applicants  
FROM: Keith E. Warren, Executive Director   
DATE: July 17, 2024  
RE: Advertising Related to the Expanded Scope of Practice

As you know, on May 3, 2023, Governor Kay Ivey signed Act 2023-106 into law, which expanded podiatrists' scope of practice to include the ankle. That expansion has led to some questions from licensees about whether advertising ankle services is permitted. In this memorandum, the Board clarifies that such advertising is generally permissible, subject to the restrictions in the Alabama Code and accompanying regulations that apply to all advertising.

Licensed podiatrists are permitted to use advertisements connected with the profession, unless a statute or regulation specifically prohibits it. Section 34-24-231 of the Alabama Code makes it unlawful to advertise in a way that "appears untruthful, impossible, or improbable or misleading" or is "calculated or intended to mislead or deceive the public." Section § 34-24-276 further provides that the Board may discipline a podiatrist for unprofessional conduct, which includes "fraudulent or misleading advertising" and "carrying the advertising of articles not connected with the profession." Alabama Administrative Rule 730-X-5-0.1 defines "fraudulent or misleading advertising" to include advertising that (as relevant here) (1) contains a misrepresentation of facts, (2) is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts, *or* (3) contains other representations or

implications that in reasonable probability will cause an ordinary and prudent person to misunderstand or be deceived.

There is thus no specific prohibition on advertising ankle services. Nor is it fraudulent or misleading for a properly licensed podiatrist to advertise services that Act 2023-106 now permits. However, licensees still must comply with the general restrictions on advertising discussed above. Licensees should specifically ensure that their advertisements are consistent with Act 2023-106. For example, podiatrists should not advertise total ankle arthroplasties, *see* Ala. Code § 34-24-230(9), and podiatrists who have not completed at least 36 months of post-graduate residency training should not advertise surgical treatment of osseous ailments of the ankle, Ala. Code § 34-24-235.

If you have any additional questions, please reach out to the Board via phone or email.