

2015 Regular Session

HOUSE BILL NO. 346

BY REPRESENTATIVE HOFFMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DENTISTRY/DENTISTS: Provides relative to advertising by dentists

1 AN ACT

2 To amend and reenact R.S. 37:775(B) and to enact R.S. 37:775(C) and 795(B)(1)(n), relative  
3 to advertising by dentists; to provide for review of advertising; to provide for an  
4 advisory opinion; to establish a fee for the review of advertising; to provide for the  
5 opportunity to correct an advertisement in lieu of receiving sanctions; to provide for  
6 effective dates; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:775(B) is hereby amended and reenacted and R.S. 37:775(C) and  
9 795(B)(1)(n) are hereby enacted to read as follows:

10 §775. Unprofessional conduct defined

11 \* \* \*

12 B.(1) Notwithstanding any provision of this Section, when it is required by  
13 this Section that an advertisement include the name of the advertising dentist, either  
14 as it appears on the license or renewal certificate of the dentist or the dentist's  
15 commonly used name, or the specialties of all dentists practicing within or under the  
16 name of a corporation, company, association, limited liability company, or trade  
17 name be disclosed in the advertisement, and the address and telephone number of the  
18 dentist, ~~such~~ the requirements shall be deemed to be sufficiently satisfied if the  
19 names and specialties of all dentists practicing in, with, or under the corporation,  
20 company, association, limited liability company, or trade name and the address and

1        ~~the~~ telephone number are made available on an ~~Internet~~ internet website fully  
2        disclosed in the advertisement, or are provided without delay to any individual  
3        requesting ~~such~~ the information by contacting the advertiser at a telephone number  
4        also disclosed in the advertisement.

5            (2) Whenever any advertisement is run by or on behalf of a corporation,  
6        company, association, limited liability company, or trade name, each dentist  
7        practicing in, with, or under the corporation, company, association, limited liability  
8        company, or trade name shall be responsible for the content of the advertisement  
9        unless an individual dentist practicing in, with, or under the corporation, company,  
10       association, limited liability company, or trade name, advises the board in writing  
11       prior to the time the board takes any action regarding the advertisement that he  
12       assumes sole responsibility for the advertisement. If an individual dentist assumes  
13       sole responsibility for the advertisement pursuant to the provisions of this Paragraph,  
14       no other dentist shall be responsible for such advertisement.

15            ~~(2)~~ (3) ~~Whenever~~ In order to assist an advertising dentist in determining  
16        which language in a communication constitutes unprofessional conduct under  
17        Paragraphs (A)(3), (4), and (5) of this Section, whenever the board determines that  
18        an advertisement constitutes unprofessional conduct under Paragraphs (A)(3), (4),  
19        or (5) of this Section, unless the communication is a clear violation or the  
20        communication involves a general dentist suggesting or implying that he is a  
21        specialist, before taking any further action pursuant to R.S. 37:776 and 780, the  
22        board shall notify the advertising dentist by mail of its determination and the specific  
23        portion of the advertisement that constitutes unprofessional conduct. The dentist  
24        shall have thirty days from the date of receipt of the notice by the dentist to correct  
25        the portions of the advertisement in violation and submit to the board proof of ~~such~~  
26        the correction. If the advertisement is corrected to remove the violation within thirty  
27        days of receipt of notice, the board shall take no further action against the advertising  
28        dentist for unprofessional conduct with regard to ~~such~~ the advertisement. In the  
29        event an advertisement cannot be corrected within the thirty days, it shall be deemed

1 sufficient if the dentist submits proof to the board within thirty days of receipt of  
2 notice that he has directed that the correction be made at the next publication date.  
3 Pursuant to the provisions of this Paragraph, a dentist shall have this right to correct  
4 an advertisement deemed by the board to be unprofessional conduct under  
5 Paragraphs (A)(3), (4), or (5) of this Section only the first two times notified of such  
6 violation; there shall be no right to correct a third or any subsequent violation,  
7 whether for the same advertisement or for a subsequent advertisement. If an  
8 advertisement is run by or on behalf of a corporation, company, association, limited  
9 liability company, or trade name, the aforementioned right to correct shall be limited  
10 to two times, regardless of the number of dentists in or associated with the  
11 corporation, association, limited liability company, or trade name.

12 C.(1) Any dentist who wishes to advertise may submit a copy of the  
13 proposed advertisement to the board for an advisory opinion on whether the  
14 advertisement complies with the requirements of the statutes and rules applicable to  
15 dental advertising in Louisiana.

16 (2) To request the review of a proposed advertisement for an advisory  
17 opinion from the board, a dentist shall submit the following to the board at least  
18 thirty days in advance of the desired opinion date:

19 (a) A copy of the advertisement or communication in the form or forms in  
20 which it is to be disseminated that is readily capable of duplication by the board,  
21 including but not limited to videotapes, audiotapes, print media, and photographs of  
22 outdoor advertising.

23 (b) A typewritten transcript of the advertisement or communication, if any  
24 portion of the advertisement or communication is on videotape, audiotape, electronic  
25 or digital media, or otherwise not embodied in written or printed form.

26 (c) A printed copy of all text used in the advertisement.

27 (d) An accurate English translation, if the advertisement appears or is audible  
28 in a language other than English.



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 346 Reengrossed

2015 Regular Session

Hoffmann

**Abstract:** Authorizes the La. State Board of Dentistry to provide an advisory opinion regarding proposed advertising by dentists.

Present law authorizes the La. State Board of Dentistry (board) to regulate the advertisements of dentists.

Proposed law retains present law.

Proposed law authorizes any dentist who wishes to advertise to submit a copy of the proposed advertisement to the board for an advisory opinion on whether the advertisement complies with the requirements of the statutes and rules applicable to dental advertising in La.

Proposed law requires a dentist, when requesting an advisory opinion from the board, to submit the following to the board at least 30 days in advance of the desired opinion date:

- (1) A copy of the advertisement or communication in the form or forms in which it is to be disseminated.
- (2) A typewritten transcript of the advertisement or communication.
- (3) A printed copy of all text used in the advertisement.
- (4) An accurate English translation.
- (5) A sample envelope in which the written communication will be enclosed.
- (6) A statement listing all media in which the advertisement or communication will appear, the anticipated frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used.
- (7) Any additional information requested by the board.
- (8) Fees paid to the board, in an amount set by the board.

Proposed law provides that the advisory opinion issued by the board, though not conclusive, may be used as evidence in any disciplinary proceeding by the board in which an advertising violation is alleged.

Proposed law authorizes the board, if an advertisement previously approved in an advisory opinion is later found to be out of compliance, to require the dentist to amend or remove the nonconforming advertisement in lieu of imposing penalties. The board is prohibited from imposing a penalty unless the dentist fails to take steps to either amend or remove the advertisement within 30 days after receiving notice from the board.

Present law authorizes the board to collect certain fees.

Proposed law retains present law and adds a fee for review of proposed advertising with a minimum of \$150.00 and a maximum of \$300.00.

Present law requires the board to notify the advertising dentist by mail if it determines that a portion of an advertisement constitutes unprofessional conduct. Present law further requires the board to provide the dentist with 30 days to correct the portions of the advertisement in violation and submit to the board proof of the correction prior to any disciplinary action being taken. The option to correct an advertisement under present law may be used by a dentist for the first two violations.

Proposed law limits present law to instances where there is no clear violation or no false claims regarding specialization.

(Amends R.S. 37:775(B); Adds R.S. 37:775(C) and 795(B)(1)(n))

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Add a provision authorizing the board to require the amendment or removal of a previously approved advertisement in lieu of imposing penalties.
3. Limit present law provisions granting a dentist the opportunity to avoid penalties by amending or removing an advertisement deemed to be unprofessional conduct to instances where there is no clear violation or no false claims regarding specialization.
4. Make proposed law effective August 1, 2015.