

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 repeal the option
5 to correct an advertisement in lieu of receiving sanctions; to provide for effective
6 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 to read as follows:

9 §775. Unprofessional conduct defined

10 * * *

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

1 disclosed in the advertisement, or are provided without delay to any individual
2 requesting ~~such~~ the information by contacting the advertiser at a telephone number
3 also disclosed in the advertisement.

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

14 ~~(2) Whenever the board determines that an advertisement constitutes~~
15 ~~unprofessional conduct under Paragraphs (A)(3), (4), or (5) of this Section, before~~
16 ~~taking any further action, the board shall notify the advertising dentist by mail of its~~
17 ~~determination and the specific portion of the advertisement that constitutes~~
18 ~~unprofessional conduct. The dentist shall have thirty days from the date of receipt~~
19 ~~of the notice by the dentist to correct the portions of the advertisement in violation~~
20 ~~and submit to the board proof of such correction. If the advertisement is corrected~~
21 ~~to remove the violation within thirty days of receipt of notice, the board shall take~~
22 ~~no further action against the advertising dentist for unprofessional conduct with~~
23 ~~regard to such advertisement. In the event an advertisement cannot be corrected~~
24 ~~within the thirty days, it shall be deemed sufficient if the dentist submits proof to the~~
25 ~~board within thirty days of receipt of notice that he has directed that the correction~~
26 ~~be made at the next publication date. Pursuant to the provisions of this Paragraph,~~
27 ~~a dentist shall have this right to correct an advertisement deemed by the board to be~~
28 ~~unprofessional conduct under Paragraphs (A)(3), (4), or (5) of this Section only the~~
29 ~~first two times notified of such violation; there shall be no right to correct a third or~~

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.

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.

Proposed law relative to the board's review of proposed advertising is effective August 1, 2015.

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 repeals present law on August 1, 2016.

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