

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~~

1 ~~any subsequent violation, whether for the same advertisement or for a subsequent~~  
2 ~~advertisement. If an advertisement is run by or on behalf of a corporation, company,~~  
3 ~~association, limited liability company, or trade name, the aforementioned right to~~  
4 ~~correct shall be limited to two times, regardless of the number of dentists in or~~  
5 ~~associated with the corporation, association, limited liability company, or trade name.~~

6 Section 2. R.S. 37:775(C) and 795(B)(1)(n) are hereby enacted to read as follows:

7 §775. Unprofessional conduct defined; review of advertisements

8 \* \* \*

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

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

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

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

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

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

26 (e) If the communication is to be mailed, a sample envelope in which the  
27 written communication will be enclosed.

28 (f) A statement listing all media in which the advertisement or  
29 communication will appear, the anticipated frequency of use of the advertisement or

1 communication in each medium in which it will appear, and the anticipated time  
2 period during which the advertisement or communication will be used.

3 (g) Any additional information requested by the board.

4 (h) Fees paid to the board, in an amount set by the board.

5 (3) The advisory opinion issued by the board, though not conclusive, may  
6 be used as evidence in any disciplinary proceeding by the board in which an  
7 advertising violation is alleged.

8 \* \* \*

9 §795. Fees and costs

10 \* \* \*

11 B. Notwithstanding any other provision of this Chapter, the fees and costs  
12 established by the board shall be not less nor more than the range created by the  
13 following schedule:

14 (1) Miscellaneous fees and costs Minimum Maximum

15 \* \* \*

16 (n) Review of proposed advertising \$ 150.00 \$ 300.00

17 \* \* \*

18 Section 3. Section 1 of this Act shall become effective on August 1, 2016.

19 Section 4. Sections 2 and 3 of this Act and this Section shall become effective on  
20 August 1, 2015.

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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 Engrossed

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.

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))