

2015 Regular Session

HOUSE BILL NO. 346

BY REPRESENTATIVE HOFFMANN

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

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

11 (2) (3) ~~Whenever~~ In order to assist an advertising dentist in determining
 12 which language in a communication constitutes unprofessional conduct under
 13 Paragraphs (A)(3), (4), and (5) of this Section, whenever the board determines that
 14 an advertisement constitutes unprofessional conduct under Paragraphs (A)(3), (4),
 15 or (5) of this Section, unless the communication is a clear violation or the
 16 communication involves a general dentist suggesting or implying that he is a
 17 specialist, before taking any further action pursuant to R.S. 37:776 and 780, the
 18 board shall notify the advertising dentist by mail of its determination and the specific
 19 portion of the advertisement that constitutes unprofessional conduct. The dentist
 20 shall have thirty days from the date of receipt of the notice by the dentist to correct
 21 the portions of the advertisement in violation and submit to the board proof of ~~such~~
 22 the correction. If the advertisement is corrected to remove the violation within thirty
 23 days of receipt of notice, the board shall take no further action against the advertising
 24 dentist for unprofessional conduct with regard to ~~such~~ the advertisement. In the
 25 event an advertisement cannot be corrected within the thirty days, it shall be deemed
 26 sufficient if the dentist submits proof to the board within thirty days of receipt of
 27 notice that he has directed that the correction be made at the next publication date.
 28 Pursuant to the provisions of this Paragraph, a dentist shall have this right to correct
 29 an advertisement deemed by the board to be unprofessional conduct under
 30 Paragraphs (A)(3), (4), or (5) of this Section only the first two times notified of such

1 violation; there shall be no right to correct a third or any subsequent violation,
2 whether for the same advertisement or for a subsequent advertisement. If an
3 advertisement is run by or on behalf of a corporation, company, association, limited
4 liability company, or trade name, the aforementioned right to correct shall be limited
5 to two times, regardless of the number of dentists in or associated with the
6 corporation, association, limited liability company, or trade name.

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

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

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

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

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

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

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

26 (f) A statement listing all media in which the advertisement or
27 communication will appear, the anticipated frequency of use of the advertisement or
28 communication in each medium in which it will appear, and the anticipated time
29 period during which the advertisement or communication will be used.

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

