

**ACT No. 214**

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.

1                    (h) The fee for the review of proposed advertising as provided by law.

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

5                    (4) If the board subsequently finds that an advertisement determined to be  
6 in compliance with the provisions of this Chapter in a prior advisory opinion issued  
7 by the board pursuant to this Subsection is in violation of any provision of this  
8 Chapter, the board may require the dentist to change or remove the advertisement.  
9 The board shall not take any further action against the dentist unless the dentist fails  
10 to take steps either to bring the advertisement into compliance with the provisions  
11 of this Chapter or remove the advertisement within thirty days after receipt of  
12 notification of the violation.

13                    \*            \*            \*

14                    §795. Fees and costs

15                    \*            \*            \*

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

19	(1) Miscellaneous fees and costs	Minimum	Maximum
20		*            *	*            *
21	<u>(n) Review of proposed advertising</u>	<u>\$ 150.00</u>	<u>\$ 300.00</u>
22		*            *	*            *

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_