

Regular Session, 2014

SENATE BILL NO. 167

BY SENATOR MARTINY

DENTISTRY. Provides relative to the Board of Dentistry. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 37:751(A), 760(A)(7), and 775(A)(9) and (B), relative to the  
3 Louisiana State Board of Dentistry; to provide for definitions; to provide for powers  
4 and duties of the board; to clarify unprofessional conduct; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 37:751(A), 760(A)(7), and 775(A)(9) and (B) are hereby amended  
8 and reenacted to read as follows:

9 §751. Definitions; licensure; presumption; short title

10 A. As used in this Chapter:

11 (1) **"Advertisement" and "advertising" means any statement, oral or**  
12 **written, requested and approved in writing by a licensed dentist, disseminated**  
13 **to or displayed before the public or any portion thereof with the intent of selling**  
14 **professional dental services, offering to perform professional dental services, or**  
15 **inducing members of the public to enter into any obligation relating to such**  
16 **professional dental services. This shall apply to advertising of any nature**  
17 **regardless of whether it is in the form of paid advertising but shall not apply to**

1           any such statement that has not been requested and approved in writing by the  
2           licensed dentist. Listing, identifying, or grouping of dentists by an insurance  
3           company on a website or by any other means of disseminating information  
4           involving a dentist participating with an insurance company and an associated  
5           affiliate (i.e., third party payer including, without limitation, a dental health  
6           maintenance organization, a dental preferred provider organization, Medicaid,  
7           or a dental discount entity) shall not be deemed an advertisement or advertising  
8           by the dentist, and the insurance company, and the associated affiliate shall not  
9           be deemed a "referral" company nor shall a "listed" dentist be considered to  
10           be advertising through a referral service by participating with such a company.

11           (2) "Another state" means each of the several states, other than Louisiana,  
12           and includes the District of Columbia, and the Commonwealth of Puerto Rico and  
13           the Virgin Islands.

14           (2)(3) "Board" means the Louisiana State Board of Dentistry.

15           (3)(4) "Dental assistant" means a person who is employed by a licensed  
16           practicing dentist and performs the duties authorized by the Louisiana State Board  
17           of Dentistry only under his direct on-premises supervision, direction, and  
18           responsibility.

19           (4)(5) "Dental hygienist" means a person licensed under the provision of this  
20           Chapter to perform those duties authorized by the Louisiana State Board of Dentistry  
21           as set forth in rules and regulations promulgated by the board in accordance with the  
22           Administrative Procedure Act.

23           (5)(6) "Dentistry" means the evaluation, diagnosis, prevention, or treatment,  
24           including nonsurgical, surgical, or related procedures, of diseases, disorders, or  
25           conditions of the oral cavity, maxillofacial areas or the adjacent and associated  
26           structures and their impact on the human body provided by a dentist within the scope  
27           of his education, training, and experience, in accordance with the ethics of the  
28           profession and applicable law.

29           (6)(7) "Expanded duty dental assistant" means a person who is employed by

1 a licensed practicing dentist and has passed an expanded function for dental  
 2 assistants course approved by the Louisiana State Board of Dentistry that shall not  
 3 consist of less than thirty classroom hours, or who has graduated from a dental  
 4 assisting program accredited by the Commission on Dental Accreditation of the  
 5 American Dental Association provided the program teaches functions as provided  
 6 for in LAC 46:XXXIII.502 and .503. An expanded duty dental assistant may perform  
 7 any functions authorized by the Louisiana State Board of Dentistry for an expanded  
 8 duty dental assistant under the direct, on-premises supervision, direction, and  
 9 responsibility of the dentist.

10 ~~(7)~~**(8)** "Licensure by credentials" means issuing of a license using a  
 11 performance record in place of examinations to evaluate theoretical knowledge and  
 12 clinical skill when an applicant for licensure has been awarded a D.D.S. or D.M.D.  
 13 degree from a dental school accredited by the Commission on Dental Accreditation  
 14 of the American Dental Association and holds a dental license or has received a  
 15 degree or certificate in a dental hygiene education program accredited by the  
 16 Commission on Dental Accreditation of the American Dental Association and holds  
 17 a dental hygiene license.

18 ~~(8)~~**(9)** "Reciprocity" means formal reciprocal agreement between two state  
 19 boards under which a dentist licensed in one state may apply for and receive a  
 20 license in another state without examination and without fulfilling any other  
 21 requirements except the usual state license fees.

22 ~~(9)~~**(10)** "Reputable dental school" means one that is recognized as such by  
 23 the Louisiana State Board of Dentistry according to its rules and regulations.

24 ~~(10)~~**(11)** "Unlicensed person" means a person who is not licensed by the  
 25 board who illegally practices dentistry or dental hygiene.

26 \* \* \*

27 §760. Powers and duties of the board

28 A. The board shall exercise, subject to the provisions of this Chapter, the  
 29 following powers and duties:

\* \* \*

(7) Shall investigate complaints of illegal practice or a violation of this Chapter when evidence is presented to the board. **Upon receipt by the board of a complaint against a licensee, the board shall notify the licensee of the nature and facts of the complaint, the identity of the complainant, and provide the licensee with a copy of the complaint, if such a complaint is in writing.**

\* \* \*

§775. Unprofessional conduct defined

A. As used in this Chapter, "unprofessional conduct" means:

\* \* \*

(9) Advertising of dental services in any medium ~~which has not been approved by the licensed dentist and which~~ **that** does not contain the dentist's full name **as it appears on the license or renewal certificate issued by the board or the dentist's commonly used name**, address, and telephone number.

\* \* \*

B. Notwithstanding any provision of this Section, when it is required by this Section that an advertisement include the name of the advertising dentist (**either** as it appears on the license or renewal certificate of the dentist **or the dentist's commonly used name**) or the specialties of all dentists practicing within or under the name of a corporation, company, association, limited liability company, or trade name be disclosed in the advertisement, **and address and phone number of the dentist**, such requirement shall be deemed to be sufficiently satisfied if the names and specialties of all dentists practicing in, with or under the said corporation, company, association, limited liability company, or trade name **and the address and the phone number** are made available on an Internet website fully disclosed in the advertisement, or are provided without delay to any individual requesting such information by contacting the advertiser at a telephone number also disclosed in the advertisement. Whether the advertisement is run by the corporation, company, association, limited liability company, or trade name, or any individual member

1 practicing therein, all dentists practicing in, with or under the corporation, company,  
2 association, limited liability company, or trade name shall be responsible for the  
3 content of the advertisement.

4 Section 2. This Act shall become effective upon signature by the governor or, if not  
5 signed by the governor, upon expiration of the time for bills to become law without signature  
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
8 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Christopher D. Adams.

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#### DIGEST

Martiny (SB 167)

Proposed law defines "advertisement" and "advertising" to mean any statement, oral or written, requested and approved in writing by a licensed dentist, disseminated to or displayed before the public or any portion thereof with the intent of selling professional dental services, offering to perform professional dental services, or inducing members of the public to enter into any obligation relating to such professional dental services. This shall apply to advertising of any nature regardless of whether it is in the form of paid advertising but shall not apply to any such statement which has not been requested and approved in writing by the licensed dentist. Listing, identifying, or grouping of dentists by an insurance company on a website or by any other means of disseminating information involving a dentist participating with an insurance company and an associated affiliate (i.e., third party payer including, without limitation, a dental health maintenance organization, a dental preferred provider organization, Medicaid, or a dental discount entity) shall not be deemed an advertisement or advertising by the dentist, and the insurance company, and the associated affiliate shall not be deemed a "referral" company nor shall a "listed" dentist be considered to be advertising through a referral service by participating with such a company.

Present law provides for one of powers of the Louisiana State Board of Dentistry (board) to be investigating complaints of illegal practice or a violation of present law when evidence is presented to the board.

Proposed law amends present law to provide the board the power to investigate complaints of illegal practice or a violation of present law when evidence is presented to the board. Further, upon receipt by the board of a complaint against a licensee, the board shall notify the licensee of the nature and facts of the complaint, the identity of the complainant, and provide the licensee with a copy of the complaint, if such a complaint is in writing.

Present law defines "unprofessional conduct" to mean advertising of dental services in any medium which has not been approved by the licensed dentist and which does not contain the dentist's full name, address, and telephone number.

Proposed law amends present law to define "unprofessional conduct" to mean advertising of dental services in any medium that does not contain the dentist's full name as it appears on the license or renewal certificate issued by the board or the dentist's commonly used name, address, and telephone number.

Present law provides when it is required by present law that an advertisement include the name of the advertising dentist as it appears on the license or renewal certificate of the dentist or the specialties of all dentists practicing within or under the name of a corporation, company, association, limited liability company, or trade name be disclosed in the advertisement, such requirement shall be deemed to be sufficiently satisfied if the names and specialties of all dentists practicing in, with or under the said corporation, company, association, limited liability company, or trade name are made available on an Internet website fully disclosed in the advertisement, or are provided without delay to any individual requesting such information by contacting the advertiser at a telephone number also disclosed in the advertisement.

Proposed law amends present law to provide when it is required by present law that an advertisement include the name of the advertising dentist (either as it appears on the license or renewal certificate of the dentist or the dentist's commonly used name) or the specialties of all dentists practicing within or under the name of a corporation, company, association, limited liability company, or trade name be disclosed in the advertisement, and address and phone number of the dentist, such requirement shall be deemed to be sufficiently satisfied if the names and specialties of all dentists practicing in, with or under the said corporation, company, association, limited liability company, or trade name and the address and the phone number are made available on an Internet website fully disclosed in the advertisement, or are provided without delay to any individual requesting such information by contacting the advertiser at a telephone number also disclosed in the advertisement.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 37:751(A), 760(A)(7), and 775(A)(9) and (B))