

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2061 Session of
2014

INTRODUCED BY CUTLER, COHEN, FEE, DeLUCA, YOUNGBLOOD, MILNE,
EVERETT, GINGRICH, BENNINGHOFF, CALTAGIRONE, McCARTER,
SCHLOSSBERG, EVANKOVICH, TOOHL AND CLYMER, APRIL 17, 2014

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 26, 2014

AN ACT

1 Providing for advertising and notice by health care
2 professionals and for penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Health Care
7 Professional Transparency Act.

8 ~~Section 2. Purpose.~~

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9 ~~The General Assembly finds and declares that:~~

10 ~~(1) There are a multitude of professional degrees using~~
11 ~~the term doctor, including medical doctor (M.D.), doctor of~~
12 ~~osteopathic medicine (D.O.), doctor of dental surgery~~
13 ~~(D.D.S.), doctor of podiatric medicine (D.P.M.), doctor of~~
14 ~~optometry (O.D.), doctor of chiropractic (D.C.) and other~~
15 ~~designations which may be used by health care practitioners.~~

16 ~~(2) A November 2010 study by the American Medical~~
17 ~~Association found that 31% of patients believe that a~~

~~chiropractor is a medical doctor, 35% of patients believe
that a doctor of nursing practice is a medical doctor, 41% of
patients believe that a psychologist is a medical doctor, 54%
of patients believe that an optometrist is a medical doctor
and 68% of patients believe a podiatrist is a medical doctor.~~

~~(3) There are widespread differences regarding the
training and qualifications required to earn medical
professional degrees. The differences often concern the
training and skills necessary to correctly detect, diagnose,
prevent and treat serious health care conditions.~~

~~(4) There is a compelling State interest in patients
being promptly and clearly informed of the training and
qualifications of the health care practitioners who provide
health care services.~~

~~(5) There is a compelling State interest in the public
being protected from potentially misleading and deceptive
health care advertising that might cause patients to have
undue expectations regarding their treatment and outcome.~~

~~Section 3. Definitions.~~

SECTION 2. DEFINITIONS.

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The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Advertisement." A printed, electronic or oral communication
or statement that names a health care practitioner in relation
to his or her practice, profession or institution in which the
individual is employed, volunteers or provides health care
services. The term includes business cards, letterhead, patient
brochures, e-mail, Internet, audio and video and any other
communication or statement used in the course of business.

1 "Deceptive" or "misleading." An advertisement or affirmative
2 communication or representation that misstates, falsely
3 describes, holds out or falsely details the health care
4 practitioner's profession, skills, training, expertise,
5 education, board certification or licensure.

6 "Health care practitioner." An individual who is authorized
7 to practice some component of the healing arts by a license,
8 permit, certificate or registration issued by a Commonwealth
9 licensing agency or board. The term does not include a person
10 who is working in a nonpatient care setting and who does not
11 have direct patient care interaction.

12 ~~"Licensee." A health care practitioner who holds an active~~ <--
13 ~~license with the licensing board governing his or her practice~~
14 ~~in this Commonwealth.~~

15 ~~Section 4. Requirements.~~

16 ~~(a) Identification. An advertisement for health care~~
17 ~~services that names a health care practitioner must:~~

18 ~~(1) Identify the type of license held by the health care~~
19 ~~practitioner.~~

20 SECTION 3. REQUIREMENTS. <--

21 (A) IDENTIFICATION.--IN AN ADVERTISEMENT FOR A HEALTH CARE
22 SERVICE, THE ADVERTISEMENT MUST:

23 (1) IDENTIFY THE TYPE OF LICENSE, CERTIFICATION,
24 REGISTRATION OR PERMIT HELD BY THE INDIVIDUAL WHO WILL
25 PERFORM THE HEALTH CARE SERVICE.

26 (2) Be free from deceptive or misleading information.

27 (a.1) Certification.--A medical doctor or doctor of
28 osteopathic medicine may not hold himself or herself out to the
29 public in a manner as being certified by a public or private
30 board, including a multidisciplinary board or as being board

1 certified unless all of the following are satisfied:

2 (1) The advertising states the full name of the
3 certifying board and the name of the specialty or
4 subspecialty.

5 (2) The board:

6 (i) is a member board of the American Board of
7 Medical Specialties or the American Osteopathic
8 Association; or

9 (ii) requires all of the following:

10 (A) Successful completion of a postgraduate
11 training program approved by the Accreditation
12 ~~Commission~~ COUNCIL for Graduate Medical Education <--
13 (ACGME) or the American Osteopathic Association that
14 provides complete training in the specialty or
15 subspecialty certified.

16 (B) Prerequisite certification by the American
17 Board of Medical Specialties or the American
18 Osteopathic Association for the training field
19 ~~certified~~. <--

20 (C) Successful completion of examination in the
21 specialty or subspecialty certified.

22 (b) Notice.--A health care practitioner must conspicuously
23 post and affirmatively communicate the health care
24 practitioner's specific licensure as follows:

25 (1) A health care practitioner must comply with the
26 requirements of section 809.2 of the act of July 19, 1979
27 (P.L.130, No.48), known as the Health Care Facilities Act.

28 (2) A health care practitioner shall display in his or
29 her office a writing that clearly identifies the type of
30 license held by the health care practitioner. The writing

1 must be of sufficient size so as to be visible and apparent
2 to all current and prospective patients.

3 (c) Practice setting.--A health care practitioner who
4 practices in more than one office shall be required to comply
5 with subsection (b) in each office.

6 ~~(d) Collaborative practice agreement. A medical doctor or <--~~
7 ~~doctor of osteopathic medicine who supervises or participates in~~
8 ~~a collaborative practice agreement with a health care~~
9 ~~practitioner who is not a medical doctor or doctor of~~
10 ~~osteopathic medicine must conspicuously post in each office a~~
11 ~~schedule of the regular hours when he or she will be present in~~
12 ~~that office.~~

13 Section 5 4. Violations and enforcement. <--

14 (a) Violations.--The following shall constitute a violation
15 of this act:

16 (1) Knowingly aiding, assisting, procuring, employing or
17 advising an unlicensed person or entity to practice or engage
18 in acts contrary to the health care practitioner's degree of
19 licensure, CERTIFICATION, REGISTRATION OR PERMIT. <--

20 (2) Delegating or contracting for the performance of
21 health care services by a health care practitioner if the
22 ~~licensee~~ INDIVIDUAL delegating or contracting for performance <--
23 knows, or has reason to know, the person does not have the
24 required authority pursuant to STATUTE OR the person's <--
25 licensure.

26 (b) Separate offense.--Each day of continuing violation
27 shall be considered a separate offense.

28 (c) Unprofessional conduct.--A health care practitioner who
29 violates any provision of this act commits unprofessional
30 conduct and shall be subject to disciplinary action under the

1 licensure, CERTIFICATION, REGISTRATION OR PERMIT provisions
2 governing the respective health care practitioner.

3 (d) Fees.--A fee or other amount billed to and paid by a
4 patient as a result of a direct violation of this act shall be
5 void and must be refunded by the health care practitioner, a
6 third party contracted to collect fees on behalf of the health
7 care practitioner, the health care practitioner's employer or
8 other entity contracting with the health care practitioner.

9 (e) Reporting.--The imposition of professional sanctions,
10 administrative fees or other disciplinary actions shall be
11 publicly reported in a journal of official record.

12 (f) Injunction.--Notwithstanding the imposition of a
13 penalty, a professional licensing board or other administrative
14 agency with jurisdiction may seek an injunction or take other
15 legal means against a person or entity violating this act.

16 Section 20. Effective date.

17 This act shall take effect in 60 days.