
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, TOOHIL AND CLYMER, APRIL 17, 2014

REFERRED TO COMMITTEE ON HEALTH, APRIL 17, 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.

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

1 chiropractor is a medical doctor, 35% of patients believe
2 that a doctor of nursing practice is a medical doctor, 41% of
3 patients believe that a psychologist is a medical doctor, 54%
4 of patients believe that an optometrist is a medical doctor
5 and 68% of patients believe a podiatrist is a medical doctor.

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

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

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

19 Section 3. Definitions.

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

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

30 "Deceptive" or "misleading." An advertisement or affirmative

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

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

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

14 Section 4. Requirements.

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

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

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

20 (a.1) Certification.--A medical doctor or doctor of
21 osteopathic medicine may not hold himself or herself out to the
22 public in a manner as being certified by a public or private
23 board, including a multidisciplinary board or as being board
24 certified unless all of the following are satisfied:

25 (1) The advertising states the full name of the
26 certifying board and the name of the specialty or
27 subspecialty.

28 (2) The board:

29 (i) is a member board of the American Board of
30 Medical Specialties or the American Osteopathic

1 Association; or

2 (ii) requires all of the following:

3 (A) Successful completion of a postgraduate
4 training program approved by the Accreditation
5 Commission for Graduate Medical Education (ACGME) or
6 the American Osteopathic Association that provides
7 complete training in the specialty or subspecialty
8 certified.

9 (B) Prerequisite certification by the American
10 Board of Medical Specialties or the American
11 Osteopathic Association for the training field
12 certified.

13 (C) Successful completion of examination in the
14 specialty or subspecialty certified.

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

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

21 (2) A health care practitioner shall display in his or
22 her office a writing that clearly identifies the type of
23 license held by the health care practitioner. The writing
24 must be of sufficient size so as to be visible and apparent
25 to all current and prospective patients.

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

29 (d) Collaborative practice agreement.--A medical doctor or
30 doctor of osteopathic medicine who supervises or participates in

1 a collaborative practice agreement with a health care
2 practitioner who is not a medical doctor or doctor of
3 osteopathic medicine must conspicuously post in each office a
4 schedule of the regular hours when he or she will be present in
5 that office.

6 Section 5. Violations and enforcement.

7 (a) Violations.--The following shall constitute a violation
8 of this act:

9 (1) Knowingly aiding, assisting, procuring, employing or
10 advising an unlicensed person or entity to practice or engage
11 in acts contrary to the health care practitioner's degree of
12 licensure.

13 (2) Delegating or contracting for the performance of
14 health care services by a health care practitioner if the
15 licensee delegating or contracting for performance knows, or
16 has reason to know, the person does not have the required
17 authority pursuant to the person's licensure.

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

20 (c) Unprofessional conduct.--A health care practitioner who
21 violates any provision of this act commits unprofessional
22 conduct and shall be subject to disciplinary action under the
23 licensure provisions governing the respective health care
24 practitioner.

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

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

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

8 Section 20. Effective date.

9 This act shall take effect in 60 days.