

5493

2013-2014 Regular Sessions

I N   S E N A T E

May 16, 2013

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Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the health care professional transparency act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "health care professional transparency act".

3     S 2. The education law is amended by adding a new section 6511-a to  
4     read as follows:

5     S 6511-A. HEALTH CARE PROFESSIONAL TRANSPARENCY. 1. DEFINITIONS. FOR  
6     PURPOSES OF THIS SECTION:

7     A. "ADVERTISEMENT" MEANS ANY COMMUNICATION OR STATEMENT, WHETHER  
8     PRINTED, ELECTRONIC OR ORAL, THAT NAMES THE HEALTH CARE PRACTITIONER IN  
9     RELATION TO HIS OR HER PRACTICE, PROFESSION, OR INSTITUTION IN WHICH THE  
10    INDIVIDUAL IS EMPLOYED, VOLUNTEERS OR OTHERWISE PROVIDES HEALTH CARE  
11    SERVICES. ADVERTISEMENT INCLUDES BUSINESS CARDS, LETTERHEAD, PATIENT  
12    BROCHURES, E-MAIL, INTERNET, AUDIO AND VIDEO AND ANY OTHER COMMUNICATION  
13    OR STATEMENT USED IN THE COURSE OF BUSINESS.

14    B. "DECEPTIVE" OR "MISLEADING" MEANS, BUT IS NOT LIMITED TO, ANY  
15    ADVERTISEMENT OR AFFIRMATIVE COMMUNICATION OR REPRESENTATION THAT  
16    MISSTATES, FALSELY DESCRIBES, HOLDS OUT OR FALSELY DETAILS THE HEALTH  
17    CARE PRACTITIONER'S PROFESSION, SKILLS, TRAINING, EXPERTISE, EDUCATION,  
18    BOARD CERTIFICATION OR LICENSURE.

19    C. "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS LICENSED, CERTI-  
20    FIED OR REGISTERED PURSUANT TO THIS TITLE.

21    2. ADVERTISEMENT REQUIREMENTS. A. AN ADVERTISEMENT FOR HEALTH CARE  
22    SERVICES THAT NAMES A HEALTH CARE PRACTITIONER MUST IDENTIFY THE TYPE OF  
23    LICENSE HELD PURSUANT TO THE DEFINITIONS UNDER THIS SECTION. THE ADVER-  
24    TISEMENT SHALL BE FREE FROM ANY AND ALL DECEPTIVE OR MISLEADING INFORMA-  
25    TION.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 B. A MEDICAL DOCTOR OR DOCTOR OF OSTEOPATHIC MEDICINE MAY NOT HOLD  
2 ONESELF OUT TO THE PUBLIC IN ANY MANNER AS BEING CERTIFIED BY A PUBLIC  
3 OR PRIVATE BOARD, INCLUDING, BUT NOT LIMITED TO, A MULTIDISCIPLINARY  
4 BOARD, OR "BOARD CERTIFIED," UNLESS ALL OF THE FOLLOWING CRITERIA ARE  
5 SATISFIED:

6 (1) THE ADVERTISEMENT STATES THE FULL NAME OF THE CERTIFYING BOARD.

7 (2) THE BOARD EITHER:

8 (I) IS A MEMBER BOARD OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR  
9 THE AMERICAN OSTEOPATHIC ASSOCIATION; OR

10 (II) REQUIRES SUCCESSFUL COMPLETION OF A POSTGRADUATE TRAINING PROGRAM  
11 APPROVED BY THE ACCREDITATION COMMISSION FOR GRADUATE MEDICAL EDUCATION  
12 OR THE AMERICAN OSTEOPATHIC ASSOCIATION THAT PROVIDES COMPLETE TRAINING  
13 IN THE SPECIALTY OR SUBSPECIALTY CERTIFIED, FOLLOWED BY PREREQUISITE  
14 CERTIFICATION BY THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR AMERICAN  
15 OSTEOPATHIC ASSOCIATION BOARD FOR THAT TRAINING FIELD AND FURTHER  
16 SUCCESSFUL COMPLETION OF EXAMINATION IN THE SPECIALTY OR SUBSPECIALTY  
17 CERTIFIED.

18 C. A HEALTH CARE PRACTITIONER PROVIDING HEALTH CARE SERVICES IN THIS  
19 STATE MUST CONSPICUOUSLY POST AND AFFIRMATIVELY COMMUNICATE THE PRACTI-  
20 TIONER'S SPECIFIC LICENSURE IN ACCORDANCE WITH THIS SECTION. THIS SHALL  
21 CONSIST OF THE FOLLOWING:

22 (1) THE HEALTH CARE PRACTITIONER SHALL WEAR A PHOTO IDENTIFICATION  
23 NAME TAG DURING ALL PATIENT ENCOUNTERS THAT SHALL INCLUDE (I) THE PRAC-  
24 TITIONER'S NAME; (II) LARGE BOLD LETTERING WHICH SPECIFIES THE TYPE OF  
25 LICENSE HELD BY THE PRACTITIONER; AND (III) THE EXPIRATION DATE OF THE  
26 LICENSE. THE NAME TAG SHALL BE OF SUFFICIENT SIZE AND BE WORN IN A  
27 CONSPICUOUS MANNER SO AS TO BE VISIBLE AND APPARENT; AND

28 (2) THE HEALTH CARE PRACTITIONER SHALL DISPLAY IN HIS OR HER OFFICE A  
29 DOCUMENT THAT CLEARLY IDENTIFIES THE TYPE OF LICENSE HELD BY THE HEALTH  
30 CARE PRACTITIONER. THE WRITING SHALL BE OF SUFFICIENT SIZE SO AS TO BE  
31 VISIBLE AND APPARENT TO ALL CURRENT AND PROSPECTIVE PATIENTS.

32 D. A HEALTH CARE PRACTITIONER WHO PRACTICES IN MORE THAN ONE OFFICE  
33 SHALL BE REQUIRED TO COMPLY WITH THESE REQUIREMENTS IN EACH PRACTICE  
34 SETTING.

35 S 2. Section 6509 of the education law is amended by adding a new  
36 subdivision 15 to read as follows:

37 (15) FAILING TO COMPLY WITH ADVERTISEMENT AND IDENTIFICATION REQUIRE-  
38 MENTS PURSUANT TO SECTION SIXTY-FIVE HUNDRED ELEVEN-A OF THIS ARTICLE.

39 S 3. Section 6530 of the education law is amended by adding a new  
40 subdivision 50 to read as follows:

41 50. FAILING TO COMPLY WITH ADVERTISEMENT AND IDENTIFICATION REQUIRE-  
42 MENTS PURSUANT TO SECTION SIXTY-FIVE HUNDRED ELEVEN-A OF THIS TITLE.

43 S 4. This act shall take effect immediately.