S T A T E O F N E W Y O R K

8410--A

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. MORELLE, SCHIMEL, P. RIVERA, BROOK-KRASNY, LAVINE -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the identification of health professional credentials in advertisements

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

Section 1. Section 6509 of the education law is amended by adding a new subdivision 15 to read as follows:

(15) FAILURE TO SPECIFY, IN ADVERTISEMENTS INFORMING THE PUBLIC OF THE AVAILABILITY OF THEIR PROFESSIONAL SERVICES, THE TITLE AND TYPE OF LICENSE, REGISTRATION OR CERTIFICATE CONFERRED TO SUCH HEALTH CARE PROFESSIONAL PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW. FOR THE PURPOSES OF THIS SECTION, "ADVERTISEMENT" INCLUDES BILLBOARDS, BROCHURES, PAMPHLETS, RADIO AND TELEVISION SCRIPTS, ELECTRONIC MEDIA, PRINTED TELEPHONE DIRECTORIES, TELEPHONE AND DIRECT MAIL SOLICITATIONS AND ANY OTHER MEANS OF PROMOTION INTENDED TO DIRECTLY OR INDIRECTLY INDUCE ANY PERSON TO ENTER INTO AN AGREEMENT FOR SERVICES WITH THE HEALTH PROFESSIONAL.

S 2. Subparagraphs (vi) and (vii) of paragraph (a) of subdivision 27 of section 6530 of the education law, as added by chapter 606 of the laws of 1991, are amended and a new subparagraph (viii) is added to read as follows:

(vi) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; [or]

(vii) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product[.]; OR

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

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(VIII) HOLDS ONESELF OUT TO THE PUBLIC IN ANY MANNER AS BEING CERTIFIED BY A PUBLIC OR PRIVATE BOARD INCLUDING BUT NOT LIMITED TO A MULTIDISCIPLINARY BOARD OR "BOARD CERTIFIED," UNLESS ALL OF THE FOLLOWING CRITERIA ARE SATISFIED:

(1) THE FULL NAME OF THE BOARD FROM WHICH THE PHYSICIAN IS CERTIFIED AND THE NAME OF THE SPECIALITY OR SUBSPECIALTY IS INCLUDED IN THE ADVERTISEMENT; AND

(2) THE BOARD MEETS ANY OF THE FOLLOWING QUALIFICATIONS:

(A) THE BOARD IS A MEMBER BOARD OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES (ABMS) OR A CERTIFYING BOARD OF THE AMERICAN OSTEOPATHIC ASSOCIATION (AOA); OR

(B) THE BOARD HAS BEEN DEEMED EQUIVALENT TO AN ABMS BOARD BY THE STATE OF NEW YORK. THE STATE SHALL APPROVE A CERTIFYING BOARD UNDER THIS SUBSECTION AS EQUIVALENT ONLY IF THE CERTIFYING BOARD REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE PHYSICIAN HAS COMPLETED A POSTGRADUATE RESIDENCY TRAINING PROGRAM THAT PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY BEING CERTIFIED AND THAT IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION, AND THE PHYSICIAN HAS ACHIEVED CERTIFICATION BY THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR AMERICAN OSTEOPATHIC ASSOCIATION FOLLOWING THAT RESIDENCY; OR

(C) THE BOARD REQUIRES SUCCESSFUL COMPLETION OF A POST-GRADUATE RESIDENCY PROGRAM APPROVED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION THAT PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY CERTIFIED, AND PRIOR CERTIFICATION BY THE MEMBER BOARD OF THE ABMS OR AOA FOR THAT RESIDENCY.

S 3. This act shall take effect immediately.