

7455

I N S E N A T E

May 21, 2012

Introduced by Sen. DeFRANCISCO -- 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 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:

1 Section 1. Section 6509 of the education law is amended by adding a
2 new subdivision 15 to read as follows:
3 (15) FAILURE TO SPECIFY, IN ADVERTISEMENTS INFORMING THE PUBLIC OF THE
4 AVAILABILITY OF THEIR PROFESSIONAL SERVICES, THE TITLE AND TYPE OF
5 LICENSE, REGISTRATION OR CERTIFICATE CONFERRED TO SUCH HEALTH CARE
6 PROFESSIONAL PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW. FOR THE
7 PURPOSES OF THIS SECTION, "ADVERTISEMENT" INCLUDES BILLBOARDS,
8 BROCHURES, PAMPHLETS, RADIO AND TELEVISION SCRIPTS, ELECTRONIC MEDIA,
9 PRINTED TELEPHONE DIRECTORIES, TELEPHONE AND DIRECT MAIL SOLICITATIONS
10 AND ANY OTHER MEANS OF PROMOTION INTENDED TO DIRECTLY OR INDIRECTLY
11 INDUCE ANY PERSON TO ENTER INTO AN AGREEMENT FOR SERVICES WITH THE
12 HEALTH PROFESSIONAL.
13 S 2. Subparagraphs (vi) and (vii) of paragraph (a) of subdivision 27
14 of section 6530 of the education law, as added by chapter 606 of the
15 laws of 1991, are amended and a new subparagraph (viii) is added to read
16 as follows:
17 (vi) makes claims of professional superiority which cannot be substan-
18 tiated by the licensee, who shall have the burden of proof; [or]
19 (vii) offers bonuses or inducements in any form other than a discount
20 or reduction in an established fee or price for a professional service
21 or product[.]; OR
22 (VIII) HOLDS ONESELF OUT TO THE PUBLIC IN ANY MANNER AS BEING CERTI-
23 FIED BY A PUBLIC OR PRIVATE BOARD INCLUDING BUT NOT LIMITED TO A MULTI-
24 DISCIPLINARY BOARD OR "BOARD CERTIFIED," UNLESS ALL OF THE FOLLOWING
25 CRITERIA ARE SATISFIED:
26 (1) THE FULL NAME OF THE BOARD FROM WHICH THE PHYSICIAN IS CERTIFIED
27 AND THE NAME OF THE SPECIALITY OR SUBSPECIALTY IS INCLUDED IN THE ADVER-
28 TISEMENT; AND

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

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

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

5 (B) THE BOARD HAS BEEN DEEMED EQUIVALENT TO AN ABMS BOARD BY THE STATE
6 OF NEW YORK. THE STATE SHALL APPROVE A CERTIFYING BOARD UNDER THIS
7 SUBSECTION AS EQUIVALENT ONLY IF THE CERTIFYING BOARD REQUIRES THAT, IN
8 ORDER TO BE CERTIFIED, THE PHYSICIAN HAS COMPLETED A POSTGRADUATE RESI-
9 DENCY TRAINING PROGRAM THAT PROVIDES COMPLETE TRAINING IN THE SPECIALTY
10 OR SUBSPECIALTY BEING CERTIFIED AND THAT IS ACCREDITED BY THE ACCREDI-
11 TATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATH-
12 IC ASSOCIATION, AND THE PHYSICIAN HAS ACHIEVED CERTIFICATION BY THE
13 AMERICAN BOARD OF MEDICAL SPECIALTIES OR AMERICAN OSTEOPATHIC ASSOCI-
14 ATION FOLLOWING THAT RESIDENCY; OR

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

20 S 3. This act shall take effect immediately.