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

5493

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

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:

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

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

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

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

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

C. "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS LICENSED, CERTIFIED OR REGISTERED PURSUANT TO THIS TITLE.

2. ADVERTISEMENT REQUIREMENTS. A. AN ADVERTISEMENT FOR HEALTH CARE SERVICES THAT NAMES A HEALTH CARE PRACTITIONER MUST IDENTIFY THE TYPE OF LICENSE HELD PURSUANT TO THE DEFINITIONS UNDER THIS SECTION. THE ADVERTISEMENT SHALL BE FREE FROM ANY AND ALL DECEPTIVE OR MISLEADING INFORMATION.

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

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B. A MEDICAL DOCTOR OR DOCTOR OF OSTEOPATHIC MEDICINE MAY NOT HOLD 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 ADVERTISEMENT STATES THE FULL NAME OF THE CERTIFYING BOARD.

(2) THE BOARD EITHER:

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

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

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

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

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

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

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

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

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

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

S 4. This act shall take effect immediately.