STATE OF NEW YORK

5870--A

Cal. No. 1114

2017-2018 Regular Sessions

IN SENATE

May 4, 2017

Introduced by Sens. GRIFFO, AVELLA, DeFRANCISCO, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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".

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

§ 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, but is not limited to, 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 and who provides health care

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

LBD04735-02-8

services such as providing direct clinical services for the benefit of the health and/or mental health of a patient.

d. "ABMS" means the American Board of Medical Specialties.

e. "AOA" means the American Osteopathic Association.

f. "ACGME" means the Accreditation Council for Graduate Medical Education.

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 this title. The advertisement shall be free from any and all deceptive or misleading information.

b. A physician licensed pursuant to article one hundred thirty-one of this title shall not hold oneself out to the public in any manner as being certified by a public or private board including, but not limited to, any multidisciplinary board, unless all of the following criteria are satisfied:

(1) The advertisement states the full name of the certifying board;

(2) The certification is accurate, current and in good standing;

(3) The terms "board eligible," "board qualified," or any similar words or phrases intended to convey the same meaning are not used; and

(4) The board either:

(i) is a member of the ABMS or AOA; or

(ii) is a non-ABMS or AOA board that requires as prerequisites for issuing certification:

(A) Successful passage of a postgraduate training program approved by the ACGME or the AOA that provides complete training in the specialty or subspecialty certified by the non-ABMS or AOA board;

(B) Certification by an ABMS or AOA board covering the training field that provides complete ACGME or AOA-accredited training in the specialty or subspecialty certified by the non-ABMS or AOA board; and

(C) Successful passage of an examination in the specialty or subspecialty certified by the non-ABMS or AOA board.

c. The requirements of paragraph b of this subdivision shall only apply to offices where four or more health care practitioners provide health care services.

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

(15) Except for the advertisement requirement in subparagraph one of paragraph b of subdivision two of section sixty-five hundred eleven-a of this subarticle, failing to comply with advertisement requirements in such section.

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

50. Except for the advertisement requirement in subparagraph one of paragraph b of subdivision two of section sixty-five hundred eleven-a of this title, failing to comply with advertisement requirements in such section.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.