

STATE OF NEW YORK

9214

IN SENATE

May 6, 2024

Introduced by Sen. STAVISKY -- 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 § 2. The People of the State of New York hereby find and declare that:

4 1. There are numerous professional degrees that include the term
5 "doctor," such as Doctor of Medicine (M.D.); Doctor of Osteopathy
6 (D.O.); Doctor of Osteopathic Medicine; Doctor of Dental Surgery
7 (D.D.S.); Doctor of Dental Medicine (D.M.D.); Doctor of Podiatric Medi-
8 cine (D.P.M.); Doctor of Optometry (O.D.); Doctor of Chiropractic
9 (D.C.); registered professional nurses or advanced practice registered
10 nurses, nurse practitioners, clinical nurse specialists, certified nurse
11 midwives, and certified nurse anesthetists with doctorate degrees
12 (D.N.P., D.N.S., Ph.D., or Ed.D.); audiologists with doctorate degrees
13 (A.U.D.); speech-language pathologists with doctorate degrees (S.L.P.D.
14 or Ph.D.); and other designations, which may be used by health care
15 practitioners; and

16 2. Each health care professional receives education and training that
17 qualifies them to provide general and specialized services respectively.
18 This training is necessary to correctly detect, diagnose, prevent, and
19 treat serious health conditions.

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

22 § 6511-a. Health care professional transparency. 1. Definitions. For
23 purposes of this section:

24 a. "Advertisement" means any communication or statement, whether
25 printed, electronic or oral, that names the health care practitioner in
26 relation to such practitioner's practice, profession, or institution in
27 which the individual is employed, volunteers or otherwise provides
28 health care services. Advertisement includes, but is not limited to,
29 business cards, letterhead, patient brochures, e-mail, internet, social
30 media, audio and video and any other communication or statement used in
31 the course of business or where the health care professional is utiliz-

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

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1 ing a professional degree or license to influence opinion or infer
2 expertise.

3 b. "Clinical setting" means any location, whether physical or virtual,
4 in which a person is evaluated, diagnosed, counseled, or treated for any
5 disease, defect, or injury.

6 c. "Deceptive" or "misleading" means, but is not limited to, any
7 advertisement or affirmative communication or representation that
8 misstates, falsely describes, holds out or falsely details the health
9 care practitioner's profession, training, education, board certification
10 or licensure.

11 d. "Health care practice or facility" means a facility licensed under
12 or regulated by the department of health, office of mental health,
13 office of addiction services and supports, office for people with devel-
14 opmental disabilities, and/or private practitioner office where
15 licensed, registered, or certified practitioners provide health care
16 services for the benefit of the health and/or mental health of a
17 patient.

18 e. "Health care practitioner" means a person who is licensed, certi-
19 fied or registered pursuant to this title and who provides health care
20 services such as providing direct clinical services for the benefit of
21 the health and/or mental health of a patient.

22 f. "Medical or medical specialty title" means any title that origi-
23 nates from or is a derivation of specialty or subspecialty training or
24 certification attained by a physician through completion of nationally
25 accredited medical education culminating in a Doctor of Medicine or
26 Doctor of Osteopathic Medicine degree; completion of a physician intern-
27 ship, residency, or fellowship training program; or any combination
28 thereof.

29 g. "Patient encounter" means any direct communication between a health
30 care practitioner and a patient and/or patient's representative in a
31 clinical setting including telehealth as defined under section twenty-
32 nine hundred ninety-nine-cc of the public health law.

33 2. Advertisement requirements. a. An advertisement for health care
34 services that names a health care practitioner shall only use the title
35 such practitioner is authorized to use pursuant to this title. Such
36 advertisement shall include such practitioner's licensure, certifi-
37 cation, and/or registration provided under this title, profession such
38 as physician, physician assistant, nurse practitioner, or other as
39 provided pursuant to this title, and board certification where applica-
40 ble. Any reference to medical board certification shall comply with
41 paragraph d of this subdivision and shall state the full name of board
42 certification and the full name of the certifying body. The advertise-
43 ment shall be free from any and all deceptive or misleading information.

44 b. A health care practitioner providing health care services in this
45 state shall conspicuously post and affirmatively communicate the practi-
46 tioner's specific licensure in accordance with this section. This shall
47 consist of the following:

48 (1) The health care practitioner shall wear a photo identification
49 name tag during all patient encounters that shall include (i) the prac-
50 titioner's full name; and (ii) large bold lettering which specifies the
51 authorized professional title, licensure, certification, and/or regis-
52 tration pursuant to this title, profession such as physician, physician
53 assistant, nurse practitioner or nurse in accordance with licensing
54 statutes as provided in this title, and board certification, where
55 applicable. Any description of medical board certification shall comply
56 with paragraph d of this subdivision. The name tag shall be of suffi-

1 cient size and be worn in a conspicuous manner so as to be readily iden-
2 tifiable;

3 (2) A health care practitioner who is not a physician shall verbally
4 identify themselves using their profession pursuant to this title during
5 each patient encounter in a clinical setting. A health care practitioner
6 who holds a doctoral degree and identifies themselves with the title
7 "doctor" while in a clinical setting shall clearly state that they are
8 not a medical doctor or physician;

9 (3) No person may use the title of or verbally identify themselves as
10 a "resident" unless the person is a graduate of a medical school and is
11 receiving graduate medical training;

12 (4)(i) A health care practitioner shall upon a patient's first visit
13 and annually thereafter verbally and in writing communicate the follow-
14 ing: (A) such practitioner's full name, (B) such practitioner's
15 license, certification or registration to ensure the patient is aware of
16 who is providing care at the time of the encounter and that individual's
17 licensure status and profession, (C) board certification where applica-
18 ble, as defined in paragraph d of this subdivision, (D) the same infor-
19 mation for other practitioners in the same practice or department as the
20 health care practitioner who they may see, and (E) a link to the website
21 for the New York state physician profile, and if the health care practi-
22 tioner is not a physician, a link to the state education department
23 license verification website.

24 (ii) The requirements of this subparagraph shall not apply (A) when a
25 health care practitioner provides a health care service to a patient but
26 does not participate in a patient encounter or otherwise directly commu-
27 nicate or interact with a patient in person or by audio or video modali-
28 ty regarding that health care service, or (B) in an emergency situation
29 when immediate or life-saving treatment is required to avoid severe harm
30 to a patient; and

31 (5) Where a health care practitioner provides a health care service to
32 a patient via a video modality, such practitioner shall display the
33 practitioner's profession pursuant to this title on the video screen
34 throughout the patient encounter.

35 c. Registration certificates issued by the department shall be
36 conspicuously displayed by each health care practitioner in each office
37 in which such person practices. In instances where health care practi-
38 tioners regularly practice at more than one office, registration certif-
39 icates shall be obtained and conspicuously displayed for each office
40 bearing the health care practitioner's name and the exact address of
41 each such office. Where practice is carried on in other than individual
42 offices or settings, each health care practitioner shall have a current
43 registration certificate available for inspection at all times.

44 d. (1) No health care professional shall hold themselves out to the
45 public, patients, or their representatives in any manner as being certi-
46 fied by a public or private medical board including but not limited to a
47 multidisciplinary board or "board certified", as a "diplomate of a
48 certifying body", or as a "member" of a certifying body, unless such
49 board (i) requires successful completion of a correlating, dedicated
50 postgraduate training program approved by the Accreditation Council for
51 Graduate Medical Education (ACGME) or the American Osteopathic Associ-
52 ation (AOA) that provides complete training in the specialty or subspe-
53 cialty certified and (ii) conducts an assessment of a candidate's
54 mastery of the core knowledge, judgment, and skills against rigorous
55 standards in the specialty or subspecialty through a certification exam-

1 ination that is initially taken by the candidate no later than seven
2 years post-training.

3 (2) For purposes of this paragraph, "correlating dedicated postgrad-
4 uate training program" refers only to programs that provide a minimum of
5 three years of experience training in a single, specific specialty and
6 lead to certification in that specialty and, if pursued, provide one
7 additional year experience training for any subspecialty certification
8 granted.

9 e. No health care professional shall include or reference medical or
10 medical specialty titles, either alone or in combination with others,
11 unless such health care practitioner is a physician licensed pursuant to
12 this chapter.

13 f. The requirements of subparagraph one of paragraph b of this subdi-
14 vision shall only apply to offices where there is more than one health
15 care practitioner providing health care services.

16 3. Public awareness campaign. a. The department, in consultation with
17 the department of health and with sufficient amounts appropriated there-
18 for, shall administer a statewide public awareness campaign to improve
19 transparency and understanding of information about health care practi-
20 tioners. Such campaign shall provide information to educate patients,
21 prospective patients, and the general public about the different types
22 of health care practitioners who deliver or may deliver their care in
23 all delivery settings. For each health care practitioner profession, the
24 campaign shall provide information including but not limited to:

25 (1) licensure, certification, or registration requirements;

26 (2) education and training requirements;

27 (3) board certification requirements, where applicable, and how to
28 find out whether an individual practitioner is board certified;

29 (4) relevant websites where information about health care professions
30 is publicly available; and

31 (5) contact information for New York state and federal government
32 offices that provide licensure, certification, or registration informa-
33 tion, and/or review and adjudicate complaints of misconduct or other
34 non-compliance by health care practitioners.

35 b. The commissioner or the commissioner's designee may consider input
36 on the public awareness campaign from medical specialty societies,
37 consumer representatives, and other community organizations and stake-
38 holders.

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

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

45 § 5. Section 6530 of the education law is amended by adding a new
46 subdivision 51 to read as follows:

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

51 § 6. This act shall take effect on the one hundred twentieth day after
52 it shall have become a law. Effective immediately, the addition, amend-
53 ment and/or repeal of any rule or regulation necessary for the implemen-
54 tation of this act on its effective date are authorized to be made and
55 completed on or before such effective date.