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:

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

§ 2. The People of the State of New York hereby find and declare that:

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

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

§ 3. 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 such practitioner's 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, social media, audio and video and any other communication or statement used in 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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ing a professional degree or license to influence opinion or infer expertise.

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

c. "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, training, education, board certification or licensure.

d. "Health care practice or facility" means a facility licensed under or regulated by the department of health, office of mental health, office of addiction services and supports, office for people with developmental disabilities, and/or private practitioner office where licensed, registered, or certified practitioners provide health care services for the benefit of the health and/or mental health of a patient.

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

f. "Medical or medical specialty title" means any title that originates from or is a derivation of specialty or subspecialty training or certification attained by a physician through completion of nationally accredited medical education culminating in a Doctor of Medicine or Doctor of Osteopathic Medicine degree; completion of a physician internship, residency, or fellowship training program; or any combination thereof.

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

2. Advertisement requirements. a. An advertisement for health care services that names a health care practitioner shall only use the title such practitioner is authorized to use pursuant to this title. Such advertisement shall include such practitioner's licensure, certification, and/or registration provided under this title, profession such as physician, physician assistant, nurse practitioner, or other as provided pursuant to this title, and board certification where applicable. Any reference to medical board certification shall comply with paragraph d of this subdivision and shall state the full name of board certification and the full name of the certifying body. The advertisement shall be free from any and all deceptive or misleading information.

b. A health care practitioner providing health care services in this state shall 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 full name; and (ii) large bold lettering which specifies the authorized professional title, licensure, certification, and/or registration pursuant to this title, profession such as physician, physician assistant, nurse practitioner or nurse in accordance with licensing statutes as provided in this title, and board certification, where applicable. Any description of medical board certification shall comply with paragraph d of this subdivision. The name tag shall be of suffi-

cient size and be worn in a conspicuous manner so as to be readily identifiable;

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

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

(4)(i) A health care practitioner shall upon a patient's first visit and annually thereafter verbally and in writing communicate the following: (A) such practitioner's full name, (B) such practitioner's license, certification or registration to ensure the patient is aware of who is providing care at the time of the encounter and that individual's licensure status and profession, (C) board certification where applicable, as defined in paragraph d of this subdivision, (D) the same information for other practitioners in the same practice or department as the health care practitioner who they may see, and (E) a link to the website for the New York state physician profile, and if the health care practitioner is not a physician, a link to the state education department license verification website.

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

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

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

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

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

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

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

f. The requirements of subparagraph one of paragraph b of this subdivision shall only apply to offices where there is more than one health care practitioner providing health care services.

3. Public awareness campaign. a. The department, in consultation with the department of health and with sufficient amounts appropriated therefor, shall administer a statewide public awareness campaign to improve transparency and understanding of information about health care practitioners. Such campaign shall provide information to educate patients, prospective patients, and the general public about the different types of health care practitioners who deliver or may deliver their care in all delivery settings. For each health care practitioner profession, the campaign shall provide information including but not limited to:

(1) licensure, certification, or registration requirements;

(2) education and training requirements;

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

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

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

b. The commissioner or the commissioner's designee may consider input on the public awareness campaign from medical specialty societies, consumer representatives, and other community organizations and stakeholders.

§ 4. 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.

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

51. 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.

§ 6. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.