

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1473

By: Representative Ferguson

For An Act To Be Entitled

AN ACT TO CREATE THE TRUTH IN HEALTHCARE PRACTITIONER
ADVERTISING ACT; TO PROVIDE TRANSPARENCY FOR PATIENTS
SEEKING A HEALTHCARE PRACTITIONER; AND FOR OTHER
PURPOSES.

Subtitle

TO CREATE THE TRUTH IN HEALTHCARE
PRACTITIONER ADVERTISING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17, Chapter 80, is amended to add an additional subchapter to read as follows:

Subchapter 4 – Truth in Healthcare Practitioner Advertising Act

17-80-401. This subchapter shall be known and may be cited as the “Truth in Healthcare Practitioner Advertising Act”.

17-80-402. Definitions.

As used in this subchapter:

(1) “Advertisement” means a printed, electronic, or oral statement that names a licensed or registered healthcare practitioner in relation to the practice, profession, or institution in which the licensed or registered healthcare practitioner is employed, volunteers, or otherwise provides health services, including without limitation statements:

(A) In audio, video, or both;

(B) On business cards;



(C) In email;
(D) Through the Internet;
(E) On letterhead;
(F) In patient brochures; and
(G) In other communications or statements used in the
course of business;

(2) "Deceptive and misleading" includes without limitation an
advertisement or affirmative communication or representation that misstates,
falsely describes, falsely holds out, or falsely details a healthcare
practitioner's profession, skills, training, expertise, education, board
certification, or licensure; and

(3) "Healthcare practitioner" means:

(A) Acupuncture practitioner, licensed acupuncturist,
certified acupuncturist, and Oriental acupuncture practitioner;

(B) Advanced practice nurse, licensed practical nurse,
licensed psychiatric technician nurse, registered nurse, and registered nurse
practitioner;

(C) Audiologist;

(D) Chiropractor, chiropractic physician, and doctor of
chiropractic;

(E) Dentist, doctor of dental medicine, and doctor of
dental surgery;

(F) Disease intervention specialist;

(G) Medical doctor, physician, and surgeon;

(H) Occupational therapist, licensed occupational
therapist, and occupational therapist registered;

(I) Optometrist, doctor of optometry, and optometric
physician;

(J) Physician, osteopathic physician and surgeon, doctor
of osteopathic medicine, and doctor of osteopathy;

(K) Pharmacist, licensed pharmacist, and doctor of
pharmacy;

(L) Physical therapist, registered physical therapist,
physiotherapist, and doctor of physical therapy;

(M) Physician assistant;

(N) Podiatrist, podiatric physician, doctor of podiatry,

doctor of podiatric medicine, and doctor of podiatric medicine and surgery;

(O) Psychologist and Psychological examiner;

(P) Social worker, licensed social worker, licensed master social worker, and licensed certified social worker; and

(Q) Speech language pathologist.

17-80-403. Advertising and display requirements.

(a)(1) An advertisement for healthcare services that names a healthcare practitioner shall identify the type of license or degree of the practitioner and the appropriate title set out in subsection (b) of this section.

(2) The advertisement shall be free of deceptive and misleading information.

(b)(1) A healthcare practitioner providing healthcare services in this state shall conspicuously identify the healthcare practitioner's license or degree, or both, as defined under this subchapter.

(2) The identification under subdivision (b)(1) of this section shall consist of:

(A) The display of a writing in the practitioner's office; and

(B) The use of name tags or clothing that includes the practitioner's name and immediately following the name contains the recognized abbreviation indicating the healthcare practitioner's professional license or degree, or both, and contains immediately below the licensure of degree, information, in equal size or larger lettering, the word or words authorized by the statutes listed in subdivisions (b)(3)(A)-(Q) to describe the practitioner.

(3) If the statutes in (b)(3)(A)-(Q) of this section later change the descriptive titles, the practitioner shall use the then-current version of the following descriptive titles:

(A) "Acupuncture practitioner", "licensed acupuncturist", "certified acupuncturist", or "Oriental acupuncture practitioner", as applicable, for practitioners of acupuncture licensed under § 17-102-101 et seq.;

(B) "Advanced practice nurse" for practitioners of nursing licensed under § 17-87-302 as advanced registered nurse practitioners,

certified registered nurse anesthetists, certified nurse midwives, or clinical nurse specialists; “licensed practical nurse” for practitioners of nursing licensed under § 17-87-304; “licensed psychiatric technician nurse” for practitioners of nursing licensed under § 17-87-305; “registered nurse” for practitioners of nursing licensed under § 17-87-301, and “registered nurse practitioner” for practitioners of nursing licensed under § 17-87-303;

(C) “Audiologist” for practitioners of audiology licensed under § 17-100-101 et seq.;

(D) “Chiropractor”, “chiropractic physician” or “doctor of chiropractic” for practitioners of chiropractic licensed under § 17-81-101 et seq.;

(E) “Dentist”, “doctor of dental medicine” or “doctor of dental surgery” for practitioners of dentistry licensed under § 17-82-101 et seq.;

(F) “Disease intervention specialist” for practitioners of disease intervention registered under the provisions of § 17-98-101 et seq.;

(G) “Medical doctor”, “physician”, “medical doctor and surgeon”, or “surgeon” as applicable, for practitioners of medicine and surgery licensed under § 17-95-101 et seq.;

(H) “Occupational therapist,” “licensed occupational therapist”, or “occupational therapist registered”, as applicable, for practitioners of occupational therapy licensed under § 17-88-101 et seq.;

(I) “Optometrist”, “doctor of optometry”, or “optometric physician” for practitioners of optometry licensed under § 17-90-101 et seq.;

(J) “Pharmacist”, “licensed pharmacist”, or “doctor of pharmacy” for practitioners of pharmacy licensed under § 17-92-101 et seq.;

(K) “Physical therapist”, “registered physical therapist”, “physiotherapist”, or “doctor of physical therapy”, as applicable, for practitioners of physical therapy licensed under § 17-93-101 et seq.;

(L) “Physician”, “osteopathic physician and surgeon”, “doctor of osteopathic medicine”, or “doctor of osteopathy” for practitioners of osteopathy licensed under § 17-91-101 et seq.;

(M) “Physician assistant” for practitioners who are licensed under § 17-105-101 et seq., to provide healthcare services under the supervision of a physician;

(N) “Podiatrist”, “podiatric physician”, “doctor of

podiatry”, “doctor of podiatric medicine”, or “doctor of podiatric medicine and surgery” for practitioners of podiatry licensed under § 17-96-101 et seq.;

(O) “Psychologist” or “psychological examiner”, as applicable, for practitioners of psychology licensed under § 17-97-101 et seq.;

(P) “Social worker”, “licensed social worker”, “licensed master social worker,” or “licensed certified social worker”, as applicable, for practitioners of social work licensed under § 17-103-101 et seq.; and

(Q) “Speech-language pathologist” for practitioners of speech-language pathology licensed under § 17-100-101 et seq.

(c) The following are examples of permissible identification:

"Sue Hernandez, M.D.

Physician"

"Fred Jones, M.S.P.A.S.

Physician Assistant"

(d)(1) A recognized field or specialty within the profession of a healthcare practitioner listed under subdivision (b)(3) of this section that is recognized or approved by the appropriate licensing board may substitute the field or specialty designation for the descriptive titles indicated in subdivision (b)(3) of this section.

(2) The following are examples of permissible substitutions:

"John Caputo, M.D.

Dermatologist"

"David Smith, D.D.S.

General Dentist"

(e) The writing to be displayed in the office under subsection (b) of this section shall be conspicuous and of sufficient size to be visible and apparent to all current and prospective patients.

(f) During all patient encounters after January 1, 2014, identification on the practitioner’s name tag or clothing under subsection (b) of this section shall be conspicuous and of sufficient size to be visible and apparent to all current and prospective patients.

(g) A healthcare practitioner who practices in more than one (1)

office shall comply with this section in each office.

(h) A healthcare practitioner who does not have an office may satisfy the requirements of this section by meeting the conditions under subsection (d) of this section.

(i) This section does not apply to a healthcare practitioner listed in subdivision (b)(3) of this section who works in a setting in which no patient care is provided and who has no direct patient care interactions.

(j) The requirements of this section involving use of practitioner descriptive titles on name tags and clothing during patient encounters do not apply to job performance within an operating room.

17-80-404. Other persons providing health care.

(a) A person involved in health care who is not covered under § 17-80-403 and who has direct patient care interactions shall wear name tags or clothing that displays his or her certification or registration, if any, and his or her job title during all patient encounters occurring after January 1, 2014.

(b) This section does not apply to an encounter in an operating room.

17-80-405. Violations and enforcement.

(a) An individual who violates this subchapter is guilty of a violation.

(b) Each day that an individual violates this subchapter is a separate offense.

(c)(1) A healthcare practitioner who violates this section commits unprofessional conduct and is subject to disciplinary action under the appropriate licensure provisions governing the healthcare practitioner.

(2) Unprofessional conduct under subdivision (c)(1) of this section does not create a private right of action for a patient.

(3) Notwithstanding the imposition of another penalty, a licensing board that has licensed a healthcare practitioner may seek injunctive or other relief as appropriate against the practitioner or any entity for a violation of subdivision (c)(1) of this section.

(4) A licensing board may enforce only violations of this subchapter against a licensee of the board.

(d) A healthcare practitioner who provides information regarding

healthcare services on an Internet website that is directly controlled or administered by the healthcare practitioner or his or her agent shall prominently display on the Internet website the practitioner's full name and type of license or degree, if any, using one (1) or more of the descriptive titles listed in subdivision (b)(3) of § 17-80-403.

17-80-406. Other laws and rules.

This subchapter does not supersede a more stringent law or more stringent rule imposed by a licensing board.

SECTION 2. DO NOT CODIFY. EFFECTIVE DATE. This act becomes effective on January 1, 2014.