

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

State of Arkansas
89th General Assembly
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As Engrossed: H3/14/13
A Bill

HOUSE BILL 2261

By: Representative Ferguson

For An Act To Be Entitled

AN ACT TO PROVIDE TRANSPARENCY TO PATIENTS IN HEALTH CARE SETTINGS; TO PROVIDE PATIENTS WITH INFORMED CHOICES WHEN SEEKING A HEALTH CARE PRACTITIONER; AND FOR OTHER PURPOSES.

Subtitle

THE TRANSPARENCY IN HEALTH CARE CREDENTIALS 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 –Transparency in Health Care Credentials Act

17-80-401. This subchapter shall be known and may be cited as the "Transparency in Health Care Credentials Act".

17-80-402. Findings.

The General Assembly finds that:

(1) Many professional degrees using the term "doctor", including Medical Doctor (M.D.); Doctor of Osteopathy (D.O.); Doctor of Dental Surgery (D.D.S.); Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (D.O.); Doctor of Chiropractic (D.C.), and other designations may be used by healthcare practitioners;

(2) Surveys show that many patients are confused about the



differences among the various health care professions;

(3) There is a compelling state interest in patients being properly and clearly informed of the training and qualifications of the healthcare practitioners that provide healthcare services; and

(4) There is a compelling state interest in the public being protected from potentially confusing, deceptive, or misleading healthcare advertising that might cause patients to have undue expectations regarding their treatment and outcome.

17-80-403. Definitions.

As used in this subchapter:

(1)(A) "Advertisement" means a commercial or professional communication naming 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:

(i) In audio, video, or both;

(ii) On business cards;

(iii) Through the Internet;

(iv) On letterhead; and

(v) In patient brochures.

(B)(i) "Advertisement" does not include information entries in building directories, telephone book listings or similar informational compendia.

(ii) However, "advertisement" include advertisements published in building directories, telephone book listings or similar informational compendia.

(2) "Deceptive" or "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;

(3) "Healthcare practitioner" means:

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

(B) An advanced practice nurse, licensed practical nurse,

licensed psychiatric technician nurse, registered nurse, and registered nurse practitioner;

(C) An audiologist;

(D) A chiropractor, chiropractic physician, and doctor of chiropractic;

(E) A dentist, doctor of dental medicine, and doctor of dental surgery;

(F) A dietitian, registered dietitian, licensed dietitian, provisionally licensed dietitian, and dietetic technician;

(G) A disease intervention specialist;

(H) A medical doctor, physician, and surgeon;

(I) An occupational therapist, licensed occupational therapist, and occupational therapist registered;

(J) An optometrist, doctor of optometry, and optometric physician;

(K) A physician, osteopathic physician and surgeon, doctor of osteopathic medicine, and doctor of osteopathy;

(L) A pharmacist, licensed pharmacist, and doctor of pharmacy;

(M) A physical therapist, registered physical therapist, physiotherapist, and doctor of physical therapy;

(N) A physician assistant;

(O) A podiatrist, podiatric physician, doctor of podiatric medicine, and doctor of podiatric medicine and surgery;

(P) A psychologist and psychological examiner;

(Q) A social worker, licensed social worker, licensed master social worker, and licensed certified social worker;

(R) A speech language pathologist; and

(S) An orthotist, orthotist/prosthetist, prosthetist, and pedorthist.

17-80-404. 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.

(2) Outdoor signage existing before the date of August 1, 2013,

is not required to meet the requirements of this act until such time as the signage is modified or replaced.

(3) The advertisement shall not include deceptive and misleading information.

(b)(1) A healthcare practitioner providing healthcare services in this state shall use a name tag or clothing that includes the practitioner's first or last name, or both 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 or degree, in easily readable lettering, the descriptive title authorized by the statutes listed in subdivision (b)(3) of this section to describe the practitioner.

(2) If the healthcare practitioner does not use a name tag or clothing that includes the practitioner's name, the practitioner shall:

(A) Give the patient, at the initial care interaction after the effective date of this act, an electronic or written document that includes the information described in subdivision (b)(1) of this section; or

(B) Post a writing at the reception desk or similar conspicuous location with the information described in (b)(1).

(3) If the provisions of subdivision (b)(3) 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) "Dietitian", "registered dietitian", "licensed dietitian", "provisionally licensed dietitian", or "dietetic technician" for practitioners of dietetics licensed under § 17-83-101 et seq.;

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

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

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

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

(K) "Orthotist", "orthotist/prosthetist", "prosthetist", or "pedorthist", as applicable, for practitioners of orthotics, pedorthics, or prosthetics licensed under § 17-107-101 et seq.;

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

(M) "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.;

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

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

(P) "Podiatrist", "podiatric physician", "doctor of podiatric medicine", or "doctor of podiatric medicine and surgery" for practitioners of podiatry licensed under § 17-96-101 et seq.;

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

(R) "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

(S) "Speech-language pathologist" for practitioners of speech-language pathology licensed under § 17-100-101 et seq., and

(c) The following are examples of permissible identification:

"Sue Hernandez, M.D.

Physician"

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

Physician Assistant"

"Erica Goldberg, D.N.P.

Advanced Practice Nurse"

(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) A healthcare practitioner who practices in more than one (1) office shall comply with this section in each office.

(f) This section does not apply to a healthcare practitioner listed in subdivision (b)(3) of this section who has no direct patient care interactions.

(g) The requirements of this section involving use of practitioner descriptive titles on name tags and clothing do not apply to job performance within an operating room, including pre-operative and post-operative

locations.

(h) When the names of multiple practitioners with the same descriptive title are referenced together in advertisements, the descriptive title need not be repeated.

17-80-405. 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 care interactions occurring after January 1, 2015.

(b) This section does not apply to job performance within an operating room, including pre-operative and post-operative locations.

17-80-406. Violations and enforcement.

(a) A healthcare practitioner who violates this section is subject to disciplinary action under the appropriate licensure provisions governing the healthcare practitioner.

(b) A violation does not create a private right of action.

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

17-80-407. Other laws and rules.

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

(b) This subchapter does not prohibit use of the title "doctor" by a healthcare practitioner, if use of that title is permitted by the practitioner's applicable licensing act.

SECTION 2. DO NOT CODIFY. EFFECTIVE DATE. Except for § 17-80-403(a)(2), concerning outdoor signage, this act becomes effective on January 1, 2015.

/s/Ferguson