

Senate Bill 197

By: Senators Hufstetler of the 52nd, Watson of the 1st, Butler of the 55th, Kirkpatrick of the 32nd, Kennedy of the 18th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to professions and businesses, so as to prohibit deceptive or
3 misleading terms or false representations by health care practitioners in advertisements and
4 representations; to prohibit the misappropriation of medical or medical specialty titles by
5 health care practitioners in advertisements and representations; to provide for definitions; to
6 provide for statutory construction; to provide for related matters; to provide for a short title;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Health Care Practitioners Truth and
11 Transparency Act."

12 **SECTION 2.**

13 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
14 provisions relative to professions and businesses, is amended by revising Code Section

15 43-1-33, relating to advertisement, signage, and identifier requirements for health care
16 practitioners, as follows:

17 "43-1-33.

18 (a) This ~~Act~~ Code section shall be known and may be cited as the 'Consumer Information
19 and Awareness Act.'

20 (b) The General Assembly hereby finds and declares that:

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

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

34 (c) As used in this Code section, the term:

35 (1) 'Advertisement' means any communication or statement, whether printed, electronic,
36 ~~or~~ verbal, or in any way disseminated to the general public or to other health care
37 practitioners, that names a health care practitioner ~~in relation to his or her~~ or the practice,
38 profession, or institution in which the practitioner is employed, volunteers, or otherwise
39 provides health care services. ~~This term includes business cards, letterhead, patient~~
40 ~~brochures, e-mail, Internet, audio, and video.~~

41 (2) 'Clinical setting' means any location, whether physical or virtual, in which a person
 42 is evaluated, diagnosed, counseled, or treated for any disease, defect, or injury.

43 (3) 'Deceptive or misleading terms or false representations' includes, but is not limited
 44 to, the use of titles, terms, or other words that misstate, falsely describe, falsely hold out,
 45 falsely detail, or falsely imply the health care practitioner's:

46 (A) Profession;

47 (B) Skills;

48 (C) Training;

49 (D) Expertise;

50 (E) Educational degree;

51 (F) Board certification;

52 (G) Licensure;

53 (H) Work or services offered; or

54 (I) Medical field, if such practitioner is not a physician licensed pursuant to Article 2
 55 of Chapter 34 of this title.

56 ~~(2)~~(4) 'Health care practice or facility' means a hospital, physician practice setting,
 57 nursing home, assisted living community, or personal care home.

58 ~~(3)~~(5) 'Health care practitioner' means a:

59 (A) Chiropractor licensed pursuant to Chapter 9 of this title;

60 (B) Professional counselor, social worker, or marriage and family therapist licensed
 61 pursuant to Chapter 10A of this title;

62 (C) Dentist licensed pursuant to Chapter 11 of this title;

63 (D) Dietitian licensed or registered pursuant to Chapter 11A of this title;

64 (E) Advanced practice registered nurse, including nurse practitioner, certified
 65 registered nurse anesthetist, certified nurse midwife, clinical nurse specialist, registered
 66 professional nurse, and licensed practical nurse, licensed or registered pursuant to
 67 Chapter 26 of this title;

- 68 (F) Occupational therapist licensed pursuant to Chapter 28 of this title;
- 69 (G) Optometrist licensed pursuant to Chapter 30 of this title;
- 70 (H) Physical therapist licensed pursuant to Chapter 33 of this title;
- 71 (I) Allopathic physician or osteopathic physician ~~Physician or osteopath~~ licensed
72 pursuant to Chapter 34 of this title;
- 73 (J) Physician assistant licensed pursuant to Chapter 34 of this title;
- 74 (K) Acupuncturist licensed pursuant to Chapter 34 of this title;
- 75 (L) Podiatrist licensed pursuant to Chapter 35 of this title;
- 76 (M) Psychologist licensed pursuant to Chapter 39 of this title;
- 77 (N) Audiologist or speech-language pathologist licensed pursuant to Chapter 44 of this
78 title;
- 79 (O) Pharmacist licensed pursuant to Chapter 4 of Title 26;
- 80 (P) Ophthalmic technician;
- 81 (Q) Medical assistant or certified nursing assistant; and
- 82 (R) Respiratory care professional certified pursuant to Article 6 of Chapter 34 of this
83 title.
- 84 (6) 'Medical or medical specialty title' means any title that originates from or is a
85 derivation of specialty or subspecialty training or certification attained by a physician
86 through completion of nationally accredited medical education culminating in a Doctor
87 of Medicine or Doctor of Osteopathic Medicine degree; completion of a physician
88 internship, residency, or fellowship training program; or any combination thereof.
- 89 (d)(1) An advertisement by a health care practitioner shall ~~identify~~ include the
90 practitioner's name and disclose only the type of license under which the health care
91 practitioner ~~holds~~ is authorized to provide services.
- 92 (2) An advertisement by a health care practitioner shall not:
- 93 (A) Include deceptive or misleading terms or false representations; or

94 (B) Include or reference medical or medical specialty titles, unless such health care
 95 practitioner is a physician licensed pursuant to Article 2 of Chapter 34 of this title.

96 ~~(2)(3) This subsection shall not apply to an advertisement by a health care practice or~~
 97 ~~facility and shall not be construed to require any such a health care practice or facility in~~
 98 ~~which multiple health care practitioners are employed to list in an advertisement the name~~
 99 ~~of every health care practitioner so employed by such practice or facility.~~

100 (d.1)(1) An advanced practice registered nurse shall verbally identify himself or herself
 101 as an advanced practice registered nurse during each patient interaction in a clinical
 102 setting. An advanced practice registered nurse who holds a doctorate degree and
 103 identifies himself or herself with the title 'doctor' while in a clinical setting shall clearly
 104 state that he or she is not a medical doctor or physician.

105 (2) A physician assistant shall verbally identify himself or herself as a physician assistant
 106 during each patient interaction in a clinical setting. A physician assistant who holds a
 107 doctorate degree and identifies himself or herself with the title 'doctor' while in a clinical
 108 setting shall clearly state that he or she is not a medical doctor or physician.

109 (3) No health care practitioner shall identify or refer to himself or herself in a clinical
 110 setting with:

111 (A) Deceptive or misleading terms or false representations; or

112 (B) Any medical or medical specialty titles, unless such health care practitioner is a
 113 physician licensed pursuant to Article 2 of Chapter 34 of this title.

114 (e)(1) A health care practitioner providing services in this state in a health care practice
 115 or facility shall conspicuously post and affirmatively communicate the practitioner's
 116 specific licensure to all current and prospective patients as follows:

117 (A)(i) The health care practitioner shall wear an identifier during all patient
 118 encounters that shall include:

119 (I) The health care practitioner's name; and

120 (II) The type of license or educational degree the health care practitioner holds.

121 (ii) The identifier shall be of sufficient size and be worn in a conspicuous manner so
122 as to be visible and apparent. A lab coat or similar distinguishing clothing or uniform
123 indicating the practitioner's specific licensure may be considered an identifier if such
124 clothing or uniform meets the requirements of division (i) of this subparagraph.

125 (iii) An identifier shall not be required in an operating room or other setting where
126 surgical or other invasive procedures are performed or in any other setting where
127 maintaining a sterile environment is medically necessary.

128 (iv) An identifier shall not be required in any mental health setting where it would
129 impede the psychotherapeutic relationship.

130 (v) If a safety or health risk to the health care practitioner or a patient would be
131 created as a result of the practitioner wearing such identifier in a specified practice
132 setting, an identifier shall not be required or may be modified by omitting or
133 concealing the last name of the practitioner in accordance with the requirements of
134 the health care practice or facility; and

135 (B) A health care practitioner in a health care practice or facility other than a hospital
136 shall display in the reception area of such practice or facility a notice that clearly
137 identifies the type of health care practitioners employed in such practice or facility and
138 the right of a patient to inquire as to the type of license of the health care practitioner
139 treating such patient. The notice shall be of sufficient size so as to be visible and
140 apparent to all current and prospective patients.

141 (2) A health care practitioner who practices in more than one office shall place the
142 identifier information conspicuously on such practitioner's website if he or she maintains
143 a website.

144 (3) A health care practitioner who practices in a nonpatient care setting and who does not
145 have any direct patient care interactions shall not be subject to the provisions of this
146 subsection.

147 (4) A health care practice or facility which requires, as of the effective date of this Code
148 section, its health care practitioners to wear an identification badge shall not be required
149 to replace such badges to conform to the requirements of subparagraph (A) of
150 paragraph (1) of this subsection.

151 (5) Except as otherwise provided by paragraph (6) of this subsection, this subsection
152 shall only apply to health care practices and facilities where more than one type of health
153 care practitioner interacts with patients in exam settings. This subsection shall not apply
154 to health care practices or facilities in which only one type of health care practitioner
155 practices.

156 (6) This subsection shall only apply to a dentist if such dentist is practicing in a hospital.
157 This subsection shall only apply to a chiropractor or optometrist if such chiropractor or
158 optometrist is practicing in a hospital, nursing home, assisted living community, or
159 personal care home.

160 (f) A health care practitioner who intentionally violates any provision of this Code section
161 may be subject to disciplinary action by the health care practitioner's professional licensing
162 board. Notwithstanding the imposition of any sanction, the health care practitioner's
163 professional licensing board may seek an injunction or other legal means as appropriate
164 against such health care practitioner violating this Code section.

165 (g) A violation of this Code section shall not constitute a private cause of action.

166 (h) Nothing in this Code section shall be construed to prevent a health care practitioner
167 from using any title or abbreviation which is statutorily authorized for such practitioner
168 pursuant to his or her respective licensing statutes."

169 **SECTION 3.**

170 All laws and parts of laws in conflict with this Act are repealed.