

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 190

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1
2 RELATING TO THE HEALTH CARE PROFESSIONAL TRANSPARENCY ACT; AMENDING TITLE
3 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 48, IDAHO
4 CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE
5 TERMS, TO PROVIDE HEALTH CARE PRACTITIONER TRANSPARENCY REQUIREMENTS
6 AND TO PROVIDE FOR VIOLATIONS AND ENFORCEMENT; AND PROVIDING AN EFFEC-
7 TIVE DATE.

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
11 ter 17, Title 48, Idaho Code, and to read as follows:

12 CHAPTER 17

13 HEALTH CARE PROFESSIONAL TRANSPARENCY ACT

14 48-1701. SHORT TITLE. This chapter shall be known and may be cited as
15 the "Health Care Professional Transparency Act."

16 48-1702. LEGISLATIVE INTENT. The legislature of the state of Idaho
17 hereby finds and declares that:

18 (1) There are widespread differences in the training and qualifica-
19 tions required to earn the professional degrees that allow someone to become
20 a health care practitioner. These differences often concern the training
21 and skills necessary to correctly detect, diagnose, prevent and treat seri-
22 ous health care conditions.

23 (2) There is a compelling state interest in promptly and clearly in-
24 forming patients of the training and qualifications of the health care prac-
25 titioners who provide health care services.

26 (3) There is a compelling state interest in protecting the public from
27 potentially misleading and deceptive health care advertising that might
28 cause patients to have inaccurate and inappropriate expectations regarding
29 their treatment or treatment provider.

30 48-1703. DEFINITIONS. For the purposes of this chapter:

31 (1) "Advertisement" means any printed or electronic communication or
32 statement that names a health care practitioner in relation to his prac-
33 tice, profession or institution in which the individual provides health care
34 services. "Advertisement" includes business cards, letterhead, patient
35 brochures, e-mail, internet, audio and video, billboards, signage, outdoor
36 advertising and any other communication or statement used in the course of
37 business.

38 (2) "Deceptive" or "misleading" means any advertisement or affirma-
39 tive communication or representation that misstates, falsely describes or

1 falsely details the health care practitioner's profession, education, board
2 certification or licensure or constitutes an offer to provide health care
3 services outside of the practitioner's licensed scope of practice.

4 (3) "Health care practitioner" means any physician or other person li-
5 censed or otherwise authorized under title 54, Idaho Code, to furnish health
6 care services.

7 (4) "Health care services" means those services offered or provided by
8 a health care practitioner relating to the prevention, cure or treatment of
9 illness, injury or disease.

10 48-1704. HEALTH CARE PRACTITIONER TRANSPARENCY REQUIREMENTS. (1) An
11 advertisement for health care services that names a health care practitioner
12 shall:

13 (a) Clearly identify the type of license held by the practitioner in a
14 way that is spelled out and is not only an abbreviation, acronym or ini-
15 tials; or

16 (b) Clearly describe the type of treatment provided such as family
17 medicine, chiropractic care, naturopathic care or some other similar
18 descriptive language.

19 Such advertisement shall not contain deceptive or misleading information.

20 (2) A health care practitioner shall not advertise procedures or ser-
21 vices outside the scope of practice of his license as set forth in title 54,
22 Idaho Code, or Idaho administrative rules unless the procedures or services
23 to be advertised have been specifically approved by the regulatory board
24 that licenses said practitioner.

25 (3) A health care practitioner providing health care services in this
26 state shall:

27 (a) If the health care practitioner wears an identification badge, dis-
28 play on the identification badge the practitioner's name and the type
29 of license, e.g., "medical doctor," "psychologist," "physician assis-
30 tant," "podiatrist," that the practitioner holds. The identification
31 badge shall be of sufficient size and be worn in a conspicuous manner so
32 as to be visible and apparent; and

33 (b) Display in a public area of his place of business a writing that
34 clearly identifies the type of license held by the health care practi-
35 tioner. The writing must be prominently displayed and be of sufficient
36 size so as to be visible and apparent to current and prospective pa-
37 tients.

38 (4) A health care practitioner who practices in more than one (1) lo-
39 cation shall be required to comply with the requirements of this section in
40 each practice setting.

41 (5) Health care practitioners working in nonpatient care settings and
42 who do not have direct interaction with patients are not subject to the pro-
43 visions of subsection (3) of this section.

44 48-1705. VIOLATIONS AND ENFORCEMENT. (1) Failure to comply with any
45 provision of section 48-1704, Idaho Code, shall constitute a violation of
46 the provisions of this chapter.

47 (2) Any health care practitioner who violates any provision of this
48 chapter as determined by a court or the licensing board governing such

1 practitioner's license is guilty of unprofessional conduct and subject to
2 disciplinary action under the appropriate licensure provisions governing
3 such practitioner.

4 (3) Notwithstanding the imposition of any penalty, a professional li-
5 censing board or other administrative agency with jurisdiction may seek an
6 injunction or other legal means as appropriate to prevent a person from vio-
7 lating the provisions of this chapter.

8 SECTION 2. This act shall be in full force and effect on and after Jan-
9 uary 1, 2014.