

# SENATE BILL No. 239

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-1; IC 25-22.5-1-1.1.

**Synopsis:** Practitioner identification and advertising. Provides that, beginning January 1, 2023, a practitioner holding a license issued by the board of chiropractic examiners, the state board of dentistry, the state board of health facility administrators, the medical licensing board, the state board of nursing, the optometry board, the board of pharmacy, the board of podiatric medicine, the speech-language pathology and audiology board, the state psychology board, the board of physical therapy, the respiratory care committee, the occupational therapy committee, the behavioral health and human services licensing board, the physician assistant committee, or the athletic trainers board is subject to disciplinary sanctions if the practitioner: (1) communicates or disseminates to the general public an advertisement that includes deceptive or misleading information or does not prominently state the type of license held by the practitioner; or (2) fails, while providing direct patient care, to wear an identification badge that clearly sets forth the practitioner's first and last name, type of license, and, if applicable, status as a student, intern, trainee, or resident. Establishes certain exceptions. Provides, for purposes of the law prohibiting the unlawful practice of medicine or osteopathic medicine, that "the practice of medicine or osteopathic medicine" includes attaching to an individual's name the words "anesthesiologist", "cardiologist", "dermatologist", or other specified words that identify a member of a medical specialty.

**Effective:** July 1, 2022.

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## Boehnlein

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January 10, 2022, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

# SENATE BILL No. 239

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 25-1-10.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2022]:  
4 **Chapter 10.3. Health Care Provider Advertising**  
5 **Sec. 1. This chapter does not apply to an advertisement**  
6 **communicated or disseminated before January 1, 2023.**  
7 **Sec. 2. (a) As used in this chapter, "advertisement" means any**  
8 **printed, electronic, or oral statement:**  
9 (1) that is communicated or disseminated to the general  
10 public; and  
11 (2) that:  
12 (A) is intended to encourage a person to use a  
13 practitioner's professional services; or  
14 (B) for commercial purposes, names a practitioner in  
15 connection with the practice, profession, or institution in  
16 which the practitioner is employed, volunteers, or provides  
17 health care services.



1           **(b) The term includes the communication or dissemination as**  
 2 **described in subsection (a) of any of the following:**

- 3           **(1) A business card.**  
 4           **(2) Letterhead.**  
 5           **(3) A patient brochure.**  
 6           **(4) A pamphlet.**  
 7           **(5) A newsletter.**  
 8           **(6) A telephone directory.**  
 9           **(7) Electronic mail.**  
 10          **(8) An Internet web site.**  
 11          **(9) A physician data base.**  
 12          **(10) An audio or video transmission.**  
 13          **(11) A direct patient solicitation.**  
 14          **(12) A billboard.**  
 15          **(13) Any other communication or statement used in the course**  
 16 **of business for the purpose of promoting services offered to**  
 17 **the public.**

18          **(c) The term does not include the following:**

- 19           **(1) Office building placards.**  
 20           **(2) Exterior building signage.**

21          **Sec. 3. As used in this chapter, "deceptive or misleading**  
 22 **information" means any information that misrepresents or falsely**  
 23 **describes a practitioner's:**

- 24           **(1) profession;**  
 25           **(2) skills;**  
 26           **(3) training;**  
 27           **(4) expertise;**  
 28           **(5) education;**  
 29           **(6) board certification; or**  
 30           **(7) license.**

31          **Sec. 4. As used in this chapter, "license" includes a license,**  
 32 **certificate, registration, or permit, including:**

- 33           **(1) an unlimited license, certificate, or registration;**  
 34           **(2) a limited or probationary license, certificate, or**  
 35 **registration;**  
 36           **(3) a temporary license, certificate, registration, or permit;**  
 37           **(4) an intern permit; or**  
 38           **(5) a provisional license.**

39          **Sec. 5. (a) As used in this chapter, except as provided in**  
 40 **subsection (b), "practitioner" means an individual who holds a**  
 41 **license issued by a board described in IC 25-0.5-11, including a**  
 42 **certificate of registration issued under IC 25-20.**



1 (b) The term does not include a veterinarian licensed under  
2 IC 25-38.1.

3 Sec. 6. (a) As used in this chapter, "type of license" means the  
4 name or title of the profession of which a practitioner is a member,  
5 as displayed on the license issued to the practitioner by the board  
6 described in IC 25-0.5-11 that issued the practitioner's license.

7 (b) The term includes any acronym or designation specifically  
8 allowed for use by individuals licensed by a board described in  
9 IC 25-0.5-11 under the governing statutes and rules.

10 (c) The term does not include a reference to or an acronym  
11 solely associated with the educational degree or qualifications of an  
12 individual licensed by a board described in IC 25-0.5-11 unless the  
13 reference or acronym is otherwise allowed for use by individuals  
14 licensed by the board under the governing statutes and rules.

15 Sec. 7. (a) An advertisement that includes a practitioner's name  
16 must prominently state the type of license held by the practitioner.

17 (b) A written advertisement that includes a practitioner's name  
18 must prominently set forth the type of license held by the  
19 practitioner in a font size and style that makes the information  
20 readily apparent to the reader.

21 (c) An advertisement must not include any deceptive or  
22 misleading information.

23 (d) A practitioner who communicates or disseminates to the  
24 general public an advertisement that violates this section is subject  
25 to disciplinary sanctions under IC 25-1-9 by the board that issued  
26 the practitioner's license.

27 SECTION 2. IC 25-1-10.5 IS ADDED TO THE INDIANA CODE  
28 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2022]:

30 **Chapter 10.5. Health Care Provider Identification Badges**

31 Sec. 1. As used in this chapter, "direct patient care" means  
32 health care that:

33 (1) provides for the physical, diagnostic, emotional, or  
34 rehabilitation needs of a patient; or

35 (2) involves:

36 (A) the examination of a patient;

37 (B) the treatment of a patient; or

38 (C) the preparation of a patient for diagnostic tests or  
39 procedures.

40 Sec. 2. (a) As used in this chapter, except as provided in  
41 subsection (b), "practitioner" means an individual who holds a  
42 license issued by a board described in IC 25-0.5-11, including a



1 certificate of registration issued under IC 25-20.

2 (b) The term does not include a veterinarian licensed under  
3 IC 25-38.1.

4 Sec. 3. As used in this chapter, "type of license" has the meaning  
5 set forth in IC 25-1-10.3-6.

6 Sec. 4. (a) Except as provided in subsection (b), and subject to  
7 subsection (d), a practitioner who provides direct patient care  
8 shall, during each patient encounter, wear an identification badge  
9 that:

10 (1) is of sufficient size and worn in such a manner as to be  
11 visible to the patient; and

12 (2) clearly sets forth:

13 (A) the practitioner's first and last name;

14 (B) the type of license held by the practitioner; and

15 (C) if applicable, the practitioner's status as a student,  
16 intern, trainee, or resident.

17 (b) A practitioner is not required to wear an identification  
18 badge during a patient encounter:

19 (1) if wearing an identification badge is not clinically feasible,  
20 such as when the practitioner is in:

21 (A) an operating room;

22 (B) an emergency or trauma setting;

23 (C) a setting where surgical or invasive procedures are  
24 performed; or

25 (D) a setting where maintaining a sterile environment is  
26 medically necessary;

27 (2) when delivering direct patient care under circumstances  
28 in which the practitioner is concerned for the practitioner's  
29 own safety; or

30 (3) if the practitioner is providing direct patient care in an  
31 office and:

32 (A) the license type and name of each practitioner who  
33 works in the office is displayed on the office door in a  
34 manner that meets the requirements of subsection (a); or  
35 (B) the license of each health care provider working in the  
36 office is posted prominently in the office and readily visible  
37 to a patient.

38 (c) A practitioner who violates this section is subject to  
39 disciplinary sanctions under IC 25-1-9 by the board that issued the  
40 practitioner's license.

41 (d) A practitioner meets the requirements of this section if:

42 (1) the practitioner's license type is displayed on a sticker or



1           **other object separate from but affixed to the practitioner's**  
 2           **identification badge; and**

3           **(2) the practitioner's badge meets the other requirements**  
 4           **under subsection (a)(1) and (a)(2).**

5           SECTION 3. IC 25-22.5-1-1.1, AS AMENDED BY P.L.28-2019,  
 6           SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2022]: Sec. 1.1. As used in this article:

8           (a) "Practice of medicine or osteopathic medicine" means any one  
 9           (1) or a combination of the following:

10           (1) Holding oneself out to the public as being engaged in:

11           (A) the diagnosis, treatment, correction, or prevention of any  
 12           disease, ailment, defect, injury, infirmity, deformity, pain, or  
 13           other condition of human beings;

14           (B) the suggestion, recommendation, or prescription or  
 15           administration of any form of treatment, without limitation;

16           (C) the performing of any kind of surgical operation upon a  
 17           human being, including tattooing (except for providing a tattoo  
 18           as defined in IC 35-45-21-4(a)), in which human tissue is cut,  
 19           burned, or vaporized by the use of any mechanical means,  
 20           laser, or ionizing radiation, or the penetration of the skin or  
 21           body orifice by any means, for the intended palliation, relief,  
 22           or cure; or

23           (D) the prevention of any physical, mental, or functional  
 24           ailment or defect of any person.

25           (2) The maintenance of an office or a place of business for the  
 26           reception, examination, or treatment of persons suffering from  
 27           disease, ailment, defect, injury, infirmity, deformity, pain, or other  
 28           conditions of body or mind.

29           (3) Attaching ~~the designation~~ "doctor of medicine", "M.D.",  
 30           "doctor of osteopathy", "D.O.", "osteopathic medical physician",  
 31           "physician", "surgeon", or "physician and surgeon", **to a name,**  
 32           either alone or in connection with other words, **the designation**  
 33           **or term:**

34           (A) "doctor of medicine";

35           (B) "M.D.";

36           (C) "doctor of osteopathy";

37           (D) "D.O.";

38           (E) "physician";

39           (F) "osteopath";

40           (G) "osteopathic medical physician";

41           (H) "surgeon";

42           (I) "physician and surgeon";



- 1 (J) "anesthesiologist";  
 2 (K) "cardiologist";  
 3 (L) "dermatologist";  
 4 (M) "endocrinologist";  
 5 (N) "gastroenterologist";  
 6 (O) "general practitioner";  
 7 (P) "gynecologist";  
 8 (Q) "hematologist";  
 9 (R) "internist";  
 10 (S) "laryngologist";  
 11 (T) "nephrologist";  
 12 (U) "neurologist";  
 13 (V) "obstetrician";  
 14 (W) "oncologist";  
 15 (X) "ophthalmologist";  
 16 (Y) "orthopedic surgeon";  
 17 (Z) "orthopedist";  
 18 (AA) "otologist";  
 19 (BB) "otolaryngologist";  
 20 (CC) "otorhinolaryngologist";  
 21 (DD) "pathologist";  
 22 (EE) "pediatrician";  
 23 (FF) "primary care physician";  
 24 (GG) "proctologist";  
 25 (HH) "psychiatrist";  
 26 (II) "radiologist";  
 27 (JJ) "rheumatologist";  
 28 (KK) "rhinologist";  
 29 (LL) "urologist"; or  
 30 (MM) any similar title or description of services;  
 31 or any other words or abbreviations to a name, indicating or  
 32 inducing others to believe that the **named** person is engaged in  
 33 the practice of medicine or osteopathic medicine. (as defined in  
 34 this section):  
 35 (4) Providing diagnostic or treatment services to a person in  
 36 Indiana when the diagnostic or treatment services:  
 37 (A) are transmitted through electronic communications; and  
 38 (B) are on a regular, routine, and nonepisodic basis or under  
 39 an oral or written agreement to regularly provide medical  
 40 services.  
 41 In addition to the exceptions described in section 2 of this chapter,  
 42 a nonresident physician who is located outside Indiana does not



- 1 practice medicine or osteopathy in Indiana by providing a second  
2 opinion to a licensee or diagnostic or treatment services to a  
3 patient in Indiana following medical care originally provided to  
4 the patient while outside Indiana.
- 5 (b) "Board" refers to the medical licensing board of Indiana.
- 6 (c) "Diagnose or diagnosis" means to examine a patient, parts of a  
7 patient's body, substances taken or removed from a patient's body, or  
8 materials produced by a patient's body to determine the source or  
9 nature of a disease or other physical or mental condition, or to hold  
10 oneself out or represent that a person is a physician and is so examining  
11 a patient. It is not necessary that the examination be made in the  
12 presence of the patient; it may be made on information supplied either  
13 directly or indirectly by the patient.
- 14 (d) "Drug or medicine" means any medicine, compound, or  
15 chemical or biological preparation intended for internal or external use  
16 of humans, and all substances intended to be used for the diagnosis,  
17 cure, mitigation, or prevention of diseases or abnormalities of humans,  
18 which are recognized in the latest editions published of the United  
19 States Pharmacopoeia or National Formulary, or otherwise established  
20 as a drug or medicine.
- 21 (e) "Licensee" means any individual holding a valid unlimited  
22 license issued by the board under this article.
- 23 (f) "Prescribe or prescription" means to direct, order, or designate  
24 the use of or manner of using a drug, medicine, or treatment, by spoken  
25 or written words or other means and in accordance with IC 25-1-9.3.
- 26 (g) "Physician" means any person who holds the degree of doctor of  
27 medicine or doctor of osteopathy or its equivalent and who holds a  
28 valid unlimited license to practice medicine or osteopathic medicine in  
29 Indiana.
- 30 (h) "Medical school" means a nationally accredited college of  
31 medicine or of osteopathic medicine approved by the board.
- 32 (i) "Physician assistant" means an individual who:
- 33 (1) is supervised by a physician;  
34 (2) graduated from an approved physician assistant program  
35 described in IC 25-27.5-2-2;  
36 (3) passed the examination administered by the National  
37 Commission on Certification of Physician Assistants (NCCPA)  
38 and maintains certification; and  
39 (4) has been licensed by the physician assistant committee under  
40 IC 25-27.5.
- 41 (j) "Agency" refers to the Indiana professional licensing agency  
42 under IC 25-1-5.





1 (k) "INSPECT program" means the Indiana scheduled prescription  
2 electronic collection and tracking program established by IC 25-1-13-4.

