



Reprinted
February 1, 2022

SENATE BILL No. 239

DIGEST OF SB 239 (Updated January 31, 2022 5:00 pm - DI 77)

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

Synopsis: Practitioner identification and advertising. Provides that, beginning January 1, 2023, certain practitioners are subject to disciplinary sanctions if the practitioner communicates or disseminates to the general public an advertisement that includes deceptive or misleading information or does not prominently state the profession or license held by the practitioner. 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 additional terms or other specified words that identify a member of a medical specialty. Establishes certain exceptions.

Effective: July 1, 2022.

**Boehnlein, Brown L, Melton,
Leising, Becker, Yoder, Ford J.D.,
Randolph Lonnie M**

January 10, 2022, read first time and referred to Committee on Health and Provider Services.
January 27, 2022, amended, reported favorably — Do Pass.
January 31, 2022, read second time, amended, ordered engrossed.

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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. However,**
7 **an advertisement that was prepared or created before January 1,**
8 **2023, may not be disseminated after December 31, 2022, unless the**
9 **advertisement complies with the requirements set forth in section**
10 **7 of this chapter.**

11 **Sec. 2. (a) As used in this chapter, "advertisement" means any**
12 **printed, electronic, or oral statement:**

13 **(1) that is communicated or disseminated to the general**
14 **public;**

15 **(2) that:**
16 **(A) is intended to encourage a person to use a**
17 **practitioner's professional services; or**

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- 1 **(B) for commercial purposes, names a practitioner in**
 2 **connection with the practice, profession, or institution in**
 3 **which the practitioner is employed, volunteers, or provides**
 4 **health care services; and**
 5 **(3) that the practitioner or the practitioner's group practice**
 6 **has control over the preparation, communication, or**
 7 **dissemination of the statement.**
 8 **(b) The term includes the communication or dissemination as**
 9 **described in subsection (a) of any other communication or**
 10 **statement used in the course of business for the purpose of**
 11 **promoting a practitioner's services offered to the public.**
 12 **(c) The term does not include the following:**
 13 **(1) Office building placards.**
 14 **(2) Exterior building signage that was in place before January**
 15 **1, 2023.**
 16 **Sec. 3. As used in this chapter, "deceptive or misleading**
 17 **information" means any information that misrepresents or falsely**
 18 **describes a practitioner's:**
 19 **(1) profession;**
 20 **(2) skills;**
 21 **(3) training;**
 22 **(4) expertise;**
 23 **(5) educational degree;**
 24 **(6) board certification; or**
 25 **(7) license.**
 26 **Sec. 3.5. As used in this chapter, "educational degree" means**
 27 **the degree awarded to the practitioner by a college or university in**
 28 **the practitioner's profession, which may be used under the scope**
 29 **of the practitioner's license, including use of its acronym.**
 30 **Sec. 4. As used in this chapter, "license" has the meaning set**
 31 **forth in IC 25-1-2-6.**
 32 **Sec. 5. (a) As used in this chapter, except as provided in**
 33 **subsection (b), "practitioner" means an individual who holds a**
 34 **license issued by a board described in IC 25-0.5-11, including a**
 35 **certificate of registration issued under IC 25-20.**
 36 **(b) The term does not include a veterinarian licensed under**
 37 **IC 25-38.1.**
 38 **Sec. 6. As used in this chapter, "profession" means the name or**
 39 **title of the profession of which a practitioner is a member,**
 40 **including any term specifically allowed for use by individuals who**
 41 **hold a license, certificate, or registration from a board described**
 42 **in IC 25-0.5-11 under the board's governing statute or rules. The**



1 term does not include the license or educational degree of a
2 practitioner.

3 **Sec. 7. (a) An advertisement that includes a practitioner's name**
4 **must prominently state the profession or license held by the**
5 **practitioner.**

6 **(b) A written advertisement that includes a practitioner's name**
7 **must prominently set forth the profession or license held by the**
8 **practitioner in a font size and style that makes the information**
9 **readily apparent to the reader.**

10 **(c) An advertisement must not include any deceptive or**
11 **misleading information.**

12 **(d) Subject to subsection (e), a practitioner who communicates**
13 **or disseminates to the general public an advertisement that violates**
14 **this section is subject to disciplinary sanctions under IC 25-1-9 by**
15 **the board that issued the practitioner's license.**

16 **(e) Nothing in this section prevents an advertisement using the**
17 **practitioner's title or designation associated with the practitioner's**
18 **educational degree if the advertisement meets the requirements of**
19 **subsection (a).**

20 SECTION 2. IC 25-22.5-1-1.1, AS AMENDED BY P.L.28-2019,
21 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2022]: Sec. 1.1. As used in this article:

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

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

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

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

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

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

40 (2) The maintenance of an office or a place of business for the
41 reception, examination, or treatment of persons suffering from
42 disease, ailment, defect, injury, infirmity, deformity, pain, or other



- 1 conditions of body or mind.
 2 (3) Attaching the designation "doctor of medicine", "M.D.",
 3 "doctor of osteopathy", "D.O.", "osteopathic medical physician",
 4 "physician", "surgeon", or "physician and surgeon", to a name,
 5 either alone or in connection with other words, **the designation**
 6 **or term:**
- 7 (A) "doctor of medicine";
 - 8 (B) "M.D.";
 - 9 (C) "doctor of osteopathy";
 - 10 (D) "D.O.";
 - 11 (E) "physician";
 - 12 (F) "osteopath";
 - 13 (G) "osteopathic medical physician";
 - 14 (H) "surgeon";
 - 15 (I) "physician and surgeon";
 - 16 (J) "anesthesiologist";
 - 17 (K) "cardiologist";
 - 18 (L) "dermatologist";
 - 19 (M) "endocrinologist";
 - 20 (N) "gastroenterologist";
 - 21 (O) "gynecologist";
 - 22 (P) "hematologist";
 - 23 (Q) "internist";
 - 24 (R) "laryngologist";
 - 25 (S) "nephrologist";
 - 26 (T) "neurologist";
 - 27 (U) "obstetrician";
 - 28 (V) "oncologist";
 - 29 (W) "ophthalmologist";
 - 30 (X) "orthopedic surgeon";
 - 31 (Y) "orthopedist";
 - 32 (Z) "otologist";
 - 33 (AA) "otolaryngologist";
 - 34 (BB) "otorhinolaryngologist";
 - 35 (CC) "pathologist";
 - 36 (DD) "pediatrician";
 - 37 (EE) "primary care physician";
 - 38 (FF) "proctologist";
 - 39 (GG) "psychiatrist";
 - 40 (HH) "radiologist";
 - 41 (II) "rheumatologist";
 - 42 (JJ) "rhinologist";



- 1 (KK) "urologist";
 2 (LL) "medical doctor";
 3 (MM) "family practice physician"; or
 4 (NN) "physiatrist".
- 5 **This subdivision does not prevent a practitioner from using**
 6 **the name or title of the practitioner's profession that is**
 7 **allowed under the practitioner's practice act or under a law**
 8 **in the Indiana Code. This subdivision does not apply to a**
 9 **practitioner if the practitioner has a special area of practice**
 10 **and the practitioner uses the following format: "[The name or**
 11 **title of the practitioner's profession] specializing in [name of**
 12 **specialty]".**
 13 **or any other words or abbreviations to a name, indicating or**
 14 **inducing others to believe that the person is engaged in the**
 15 **practice of medicine or osteopathic medicine. (as defined in this**
 16 **section):**
- 17 (4) Providing diagnostic or treatment services to a person in
 18 Indiana when the diagnostic or treatment services:
- 19 (A) are transmitted through electronic communications; and
 20 (B) are on a regular, routine, and nonepisodic basis or under
 21 an oral or written agreement to regularly provide medical
 22 services.
- 23 In addition to the exceptions described in section 2 of this chapter,
 24 a nonresident physician who is located outside Indiana does not
 25 practice medicine or osteopathy in Indiana by providing a second
 26 opinion to a licensee or diagnostic or treatment services to a
 27 patient in Indiana following medical care originally provided to
 28 the patient while outside Indiana.
- 29 (b) "Board" refers to the medical licensing board of Indiana.
- 30 (c) "Diagnose or diagnosis" means to examine a patient, parts of a
 31 patient's body, substances taken or removed from a patient's body, or
 32 materials produced by a patient's body to determine the source or
 33 nature of a disease or other physical or mental condition, or to hold
 34 oneself out or represent that a person is a physician and is so examining
 35 a patient. It is not necessary that the examination be made in the
 36 presence of the patient; it may be made on information supplied either
 37 directly or indirectly by the patient.
- 38 (d) "Drug or medicine" means any medicine, compound, or
 39 chemical or biological preparation intended for internal or external use
 40 of humans, and all substances intended to be used for the diagnosis,
 41 cure, mitigation, or prevention of diseases or abnormalities of humans,
 42 which are recognized in the latest editions published of the United



- 1 States Pharmacopoeia or National Formulary, or otherwise established
2 as a drug or medicine.
- 3 (e) "Licensee" means any individual holding a valid unlimited
4 license issued by the board under this article.
- 5 (f) "Prescribe or prescription" means to direct, order, or designate
6 the use of or manner of using a drug, medicine, or treatment, by spoken
7 or written words or other means and in accordance with IC 25-1-9.3.
- 8 (g) "Physician" means any person who holds the degree of doctor of
9 medicine or doctor of osteopathy or its equivalent and who holds a
10 valid unlimited license to practice medicine or osteopathic medicine in
11 Indiana.
- 12 (h) "Medical school" means a nationally accredited college of
13 medicine or of osteopathic medicine approved by the board.
- 14 (i) "Physician assistant" means an individual who:
- 15 (1) ~~is supervised by~~ **has a collaborative agreement with a**
16 **physician;**
- 17 (2) graduated from an approved physician assistant program
18 described in IC 25-27.5-2-2;
- 19 (3) passed the examination administered by the National
20 Commission on Certification of Physician Assistants (NCCPA)
21 and maintains certification; and
- 22 (4) has been licensed by the physician assistant committee under
23 IC 25-27.5.
- 24 (j) "Agency" refers to the Indiana professional licensing agency
25 under IC 25-1-5.
- 26 (k) "INSPECT program" means the Indiana scheduled prescription
27 electronic collection and tracking program established by IC 25-1-13-4.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 239, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, after "." insert "**However, an advertisement that was prepared or created before January 1, 2023, may not be disseminated after December 31, 2022, unless the advertisement complies with the requirements set forth in section 7 of this chapter.**".

Page 2, between lines 14 and 15, begin a new line block indented and insert:

"(13) A newspaper or magazine."

Page 2, line 15, delete "(13)" and insert "**(14)**".

Page 2, line 20, delete "signage." and insert "**signage that was in place before January 1, 2023.**".

Page 3, delete lines 7 through 9.

Page 3, line 10, delete "(c)" and insert "**(b)**".

Page 3, delete lines 27 through 42.

Delete page 4.

Page 5, delete lines 1 through 4.

Page 6, delete line 6.

Page 6, line 7, delete "(P)" and insert "**(O)**".

Page 6, line 8, delete "(Q)" and insert "**(P)**".

Page 6, line 9, delete "(R)" and insert "**(Q)**".

Page 6, line 10, delete "(S)" and insert "**(R)**".

Page 6, line 11, delete "(T)" and insert "**(S)**".

Page 6, line 12, delete "(U)" and insert "**(T)**".

Page 6, line 13, delete "(V)" and insert "**(U)**".

Page 6, line 14, delete "(W)" and insert "**(V)**".

Page 6, line 15, delete "(X)" and insert "**(W)**".

Page 6, line 16, delete "(Y)" and insert "**(X)**".

Page 6, line 17, delete "(Z)" and insert "**(Y)**".

Page 6, line 18, delete "(AA)" and insert "**(Z)**".

Page 6, line 19, delete "(BB)" and insert "**(AA)**".

Page 6, line 20, delete "(CC)" and insert "**(BB)**".

Page 6, line 21, delete "(DD)" and insert "**(CC)**".

Page 6, line 22, delete "(EE)" and insert "**(DD)**".

Page 6, line 23, delete "(FF)" and insert "**(EE)**".

Page 6, line 24, delete "(GG)" and insert "**(FF)**".



Page 6, line 25, delete "(HH)" and insert "(GG)".

Page 6, line 26, delete "(II)" and insert "(HH)".

Page 6, line 27, delete "(JJ)" and insert "(II)".

Page 6, line 28, delete "(KK)" and insert "(JJ)".

Page 6, line 29, delete "(LL)" and insert "(KK)".

Page 6, line 29, delete "or".

Page 6, delete line 30, begin a new line double block indented and insert:

"(LL) "medical doctor";

(MM) "family practice physician"; or

(NN) "physiatrist".

This subdivision does not prevent a practitioner from using the name or title of the practitioner's profession that is allowed under the practitioner's practice act."

Page 6, strike line 31.

Page 6, line 32, strike "inducing others to believe that the".

Page 6, line 32, delete "named".

Page 6, line 32, strike "person is engaged in"

Page 6, strike line 33.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 239 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 239 be amended to read as follows:

Page 1, line 14, delete "and".

Page 2, line 4, delete "services." and insert "**services; and**

(3) that the practitioner or the practitioner's group practice has control over the preparation, communication, or dissemination of the statement."

Page 2, line 6, delete "of the following:".

Page 2, delete lines 7 through 19.

Page 2, line 20, delete "(14) Any".

Page 2, run in lines 6 through 20.

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Page 2, line 21, after "promoting" insert "**a practitioner's**".

Page 2, line 34, delete "education;" and insert "**educational degree;**".

Page 2, delete lines 37 through 42, begin a new paragraph and insert:

"Sec. 3.5. As used in this chapter, "educational degree" means the degree awarded to the practitioner by a college or university in the practitioner's profession, which may be used under the scope of the practitioner's license, including use of its acronym.

Sec. 4. As used in this chapter, "license" has the meaning set forth in IC 25-1-2-6."

Page 3, delete lines 1 through 2.

Page 3, delete lines 9 through 17, begin a new paragraph and insert:

"Sec. 6. As used in this chapter, "profession" means the name or title of the profession of which a practitioner is a member, including any term specifically allowed for use by individuals who hold a license, certificate, or registration from a board described in IC 25-0.5-11 under the board's governing statute or rules. The term does not include the license or educational degree of a practitioner."

Page 3, line 19, delete "type of " and insert "**profession or**".

Page 3, line 21, delete "type of" and insert "**profession or**".

Page 3, line 26, delete "A" and insert "**Subject to subsection (e), a**".

Page 3, between lines 29 and 30, begin a new paragraph and insert:

"(e) Nothing in this section prevents an advertisement using the practitioner's title or designation associated with the practitioner's educational degree if the advertisement meets the requirements of subsection (a)."

Page 5, line 17, delete "act." and insert "**act or under a law in the Indiana Code. This subdivision does not apply to a practitioner if the practitioner has a special area of practice and the practitioner uses the following format: "[The name or title of the practitioner's profession] specializing in [name of specialty]"**".

Page 6, line 20, strike "is supervised by" and insert "**has a collaborative agreement with**".

(Reference is to SB 239 as printed January 28, 2022.)

BOEHNLEIN

