



January 23, 2015

SENATE BILL No. 462

DIGEST OF SB 462 (Updated January 21, 2015 12:05 pm - DI 104)

Citations Affected: IC 25-0.5; IC 25-1; IC 25-2.5; IC 25-10; IC 25-14.

Synopsis: Advertising by health care practitioners. Specifies certain information to be included beginning January 1, 2016, in health care advertisements by a health care practitioner. Sets forth requirements that must be met in order for a physician to use the term "board certified".

Effective: January 1, 2016.

Miller Patricia

January 14, 2015, read first time and referred to Committee on Health & Provider Services.
January 22, 2015, amended, reported favorably — Do Pass.

SB 462—LS 7355/DI 104



January 23, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 462

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 25-0.5-11-1, AS ADDED BY P.L.3-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2016]: Sec. 1. As used in IC 25-1-9 **and IC 25-1-10**,
4 "board" means any of the entities described in this chapter.
5 SECTION 2. IC 25-1-9-4, AS AMENDED BY P.L.197-2007,
6 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JANUARY 1, 2016]: Sec. 4. (a) A practitioner shall conduct the
8 practitioner's practice in accordance with the standards established by
9 the board regulating the profession in question and is subject to the
10 exercise of the disciplinary sanctions under section 9 of this chapter if,
11 after a hearing, the board finds:
12 (1) a practitioner has:
13 (A) engaged in or knowingly cooperated in fraud or material
14 deception in order to obtain a license to practice, including
15 cheating on a licensing examination;
16 (B) engaged in fraud or material deception in the course of

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- 1 professional services or activities;
 2 (C) advertised services:
 3 (i) in a false or misleading manner; **or**
 4 (ii) **in violation of IC 25-1-10**; or
 5 (D) been convicted of a crime or assessed a civil penalty
 6 involving fraudulent billing practices, including fraud under:
 7 (i) Medicaid (42 U.S.C. 1396 et seq.);
 8 (ii) Medicare (42 U.S.C. 1395 et seq.);
 9 (iii) the children's health insurance program under
 10 IC 12-17.6; or
 11 (iv) insurance claims;
 12 (2) a practitioner has been convicted of a crime that:
 13 (A) has a direct bearing on the practitioner's ability to continue
 14 to practice competently; or
 15 (B) is harmful to the public;
 16 (3) a practitioner has knowingly violated any state statute or rule,
 17 or federal statute or regulation, regulating the profession in
 18 question;
 19 (4) a practitioner has continued to practice although the
 20 practitioner has become unfit to practice due to:
 21 (A) professional incompetence that:
 22 (i) may include the undertaking of professional activities
 23 that the practitioner is not qualified by training or experience
 24 to undertake; and
 25 (ii) does not include activities performed under
 26 IC 16-21-2-9;
 27 (B) failure to keep abreast of current professional theory or
 28 practice;
 29 (C) physical or mental disability; or
 30 (D) addiction to, abuse of, or severe dependency upon alcohol
 31 or other drugs that endanger the public by impairing a
 32 practitioner's ability to practice safely;
 33 (5) a practitioner has engaged in a course of lewd or immoral
 34 conduct in connection with the delivery of services to the public;
 35 (6) a practitioner has allowed the practitioner's name or a license
 36 issued under this chapter to be used in connection with an
 37 individual who renders services beyond the scope of that
 38 individual's training, experience, or competence;
 39 (7) a practitioner has had disciplinary action taken against the
 40 practitioner or the practitioner's license to practice in any state or
 41 jurisdiction on grounds similar to those under this chapter;
 42 (8) a practitioner has diverted:



- 1 (A) a legend drug (as defined in IC 16-18-2-199); or
- 2 (B) any other drug or device issued under a drug order (as
- 3 defined in IC 16-42-19-3) for another person;
- 4 (9) a practitioner, except as otherwise provided by law, has
- 5 knowingly prescribed, sold, or administered any drug classified
- 6 as a narcotic, addicting, or dangerous drug to a habitue or addict;
- 7 (10) a practitioner has failed to comply with an order imposing a
- 8 sanction under section 9 of this chapter;
- 9 (11) a practitioner has engaged in sexual contact with a patient
- 10 under the practitioner's care or has used the practitioner-patient
- 11 relationship to solicit sexual contact with a patient under the
- 12 practitioner's care;
- 13 (12) a practitioner who is a participating provider of a health
- 14 maintenance organization has knowingly collected or attempted
- 15 to collect from a subscriber or enrollee of the health maintenance
- 16 organization any sums that are owed by the health maintenance
- 17 organization; or
- 18 (13) a practitioner has assisted another person in committing an
- 19 act that would be grounds for disciplinary sanctions under this
- 20 chapter.

21 (b) A practitioner who provides health care services to the
 22 practitioner's spouse is not subject to disciplinary action under
 23 subsection (a)(11).

24 (c) A certified copy of the record of disciplinary action is conclusive
 25 evidence of the other jurisdiction's disciplinary action under subsection
 26 (a)(7).

27 SECTION 3. IC 25-1-10 IS ADDED TO THE INDIANA CODE AS
 28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2016]:

30 **Chapter 10. Advertising by Health Care Providers**

31 **Sec. 1. This chapter is effective beginning January 1, 2016, and**
 32 **does not apply to any advertising communicated or otherwise**
 33 **disseminated before January 1, 2016.**

34 **Sec. 2. As used in this chapter, "advertisement" means the**
 35 **commercial use of any printed, electronic, or oral communication**
 36 **or statement that is communicated or otherwise disseminated to**
 37 **the general public for the purpose of encouraging a person to use**
 38 **the practitioner's professional services and names a practitioner**
 39 **concerning the practice, profession, or institution in which the**
 40 **practitioner is employed, volunteers, or otherwise provides health**
 41 **care services. The term includes any of the following:**

- 42 (1) A business card.



- 1 (2) Letterhead.
 2 (3) Patient brochure.
 3 (4) Pamphlet.
 4 (5) Newsletter.
 5 (6) Telephone directory.
 6 (7) Electronic mail.
 7 (8) Internet web site.
 8 (9) Physician data base.
 9 (10) Audio or video transmissions.
 10 (11) Direct patient solicitation.
 11 (12) Billboards.
 12 (13) Any other communication or statement used in the course
 13 of business for the purpose of promoting services to the
 14 public.

15 Sec. 3. As used in this chapter, "deceptive or misleading
 16 information" means any information that falsely describes or
 17 misrepresents the profession, skills, training, expertise, education,
 18 board certification, or licensure of a practitioner.

19 Sec. 4. As used in this chapter, "license" includes a license,
 20 certificate, registration, or permit.

21 Sec. 5. (a) As used in this chapter and except as provided in
 22 subsection (b), "practitioner" means an individual who holds:

- 23 (1) an unlimited license, certificate, or registration;
 24 (2) a limited or probationary license, certificate, or
 25 registration;
 26 (3) a temporary license, certificate, registration, or permit;
 27 (4) an intern permit; or
 28 (5) a provisional license;

29 issued by the board described in IC 25-0.5-11 that is regulating the
 30 profession in question, including a certificate of registration issued
 31 under IC 25-20.

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

34 Sec. 6. (a) A practitioner who uses an advertisement for health
 35 care services that names the practitioner shall prominently identify
 36 in the advertisement the type of license held by the practitioner and
 37 may not include in the advertisement any deceptive or misleading
 38 information. If the advertisement is in writing, information
 39 concerning licensure and board certification that is required under
 40 this chapter must be prominently displayed in the advertisement
 41 using a font size and style that makes the information readily
 42 apparent.



1 **(b) A physician may not hold himself or herself out to the public**
 2 **as board certified in a particular specialty or subspecialty or state**
 3 **that the physician is board certified in a particular specialty or**
 4 **subspecialty unless:**

5 **(1) either:**

6 **(A) the physician discloses the full and correct name of the**
 7 **certification board by which the physician is certified; or**

8 **(B) the physician uses a professional abbreviation that is**
 9 **commonly used by the board certified physicians to**
 10 **identify the board certification;**

11 **(2) the certification board is a member of the:**

12 **(A) American Board of Medical Specialties; or**

13 **(B) American Osteopathic Association; and**

14 **(3) the certification board requires for certification in a**
 15 **particular specialty or subspecialty:**

16 **(A) the successful completion of a postgraduate training**
 17 **program that has been approved by the:**

18 **(i) Accreditation Council for Graduate Medical**
 19 **Education; or**

20 **(ii) American Osteopathic Association;**

21 **(B) prerequisite certification by the:**

22 **(i) American Board of Medical Specialties; or**

23 **(ii) American Osteopathic Association;**

24 **in a specialty or subspecialty; and**

25 **(C) the successful completion of an examination in the**
 26 **specialty or subspecialty.**

27 **A practitioner may use professional abbreviations in an**
 28 **advertisement if the abbreviation is commonly used by the**
 29 **practitioner's certifying board or by the practitioner to refer to the**
 30 **practitioner's license.**

31 **(c) A practitioner who violates any provision of this section:**

32 **(1) commits unprofessional conduct, a Class A infraction; and**

33 **(2) is subject to disciplinary action under IC 25-1-9.**

34 **SECTION 4. IC 25-2.5-2-6 IS AMENDED TO READ AS**
 35 **FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 6. The board may**
 36 **deny, suspend, or revoke a license, require remedial education, or issue**
 37 **a letter of reprimand, if an applicant or licensed acupuncturist does any**
 38 **of the following:**

39 **(1) Engages in false or fraudulent conduct that demonstrates an**
 40 **unfitness to practice acupuncture, including:**

41 **(A) making a misrepresentation in connection with an**
 42 **application for a license or an investigation by the board;**



- 1 (B) attempting to collect fees for services that were not
 2 performed;
 3 (C) false advertising, including:
 4 (i) **violating IC 25-1-10; or**
 5 (ii) guaranteeing that a cure will result from an acupuncture
 6 treatment; or
 7 (D) dividing, or agreeing to divide, a fee for acupuncture
 8 services with another person for referring the patient.
 9 (2) Fails to exercise proper control over the acupuncturist's
 10 practice by:
 11 (A) aiding an unlicensed person in practicing acupuncture;
 12 (B) delegating professional responsibilities to a person the
 13 acupuncturist knows or should know is not qualified to
 14 perform; or
 15 (C) insufficiently supervising unlicensed personnel working
 16 with the acupuncturist in the practice.
 17 (3) Fails to maintain records in a proper manner by:
 18 (A) failing to keep written records describing the course of
 19 treatment for each patient;
 20 (B) refusing to provide upon request patient records that have
 21 been prepared for or paid for by the patient; or
 22 (C) revealing personally identifiable information about a
 23 patient, without the patient's consent, unless otherwise allowed
 24 by law.
 25 (4) Fails to exercise proper care of a patient, including:
 26 (A) abandoning or neglecting a patient without making
 27 reasonable arrangements for the continuation of care; or
 28 (B) exercising or attempting to exercise undue influence
 29 within the relationship between the acupuncturist and the
 30 patient by making sexual advances or requests for sexual
 31 activity or by making submission to sexual conduct a condition
 32 of treatment.
 33 (5) Displays substance abuse or mental impairment to the degree
 34 that it interferes with the ability to provide safe and effective
 35 treatment.
 36 (6) Is convicted, pleads guilty, or pleads no contest to a crime that
 37 demonstrates an unfitness to practice acupuncture.
 38 (7) Fails, in a negligent manner, to practice acupuncture with the
 39 level of skill recognized within the profession as acceptable under
 40 the circumstances.
 41 (8) Violates willfully any provision of this article or rule of the
 42 board.



- 1 (9) Has had a license denied, suspended, or revoked in another
 2 jurisdiction for a reason that would be grounds for denial,
 3 suspension, or revocation of a license under this article.
- 4 SECTION 5. IC 25-10-2-3 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 3. Rules adopted
 6 under section 2(1) of this chapter shall **be consistent with IC 25-1-10**
 7 **and** include the regulation of advice on advertising, promotions, office
 8 management, fraudulent or misleading billing practices, and practice
 9 building regarding patient volume.
- 10 SECTION 6. IC 25-14-1-23, AS AMENDED BY P.L.264-2013,
 11 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JANUARY 1, 2016]: Sec. 23. (a) A person is practicing dentistry
 13 within the meaning of this chapter if the person does any of the
 14 following:
- 15 (1) Uses the word "dentist" or "dental surgeon", the letters
 16 "D.D.S." or "D.M.D.", or other letters or titles in connection with
 17 dentistry.
- 18 (2) Directs and controls the treatment of patients within a place
 19 where dental services are performed.
- 20 (3) Advertises or permits to be advertised by sign, card, circular,
 21 handbill, newspaper, radio, or otherwise that the person:
- 22 (A) **violates IC 25-1-10; or**
 23 (B) can or will attempt to perform dental operations of any
 24 kind.
- 25 (4) Offers to diagnose or professes to diagnose or treats or
 26 professes to treat any of the lesions or diseases of the human oral
 27 cavity, teeth, gingiva, or maxillary or mandibular structures.
- 28 (5) Extracts human teeth or corrects malpositions of the teeth or
 29 jaws.
- 30 (6) Except as provided in IC 25-13-1-10.5 and IC 25-13-1-10.6,
 31 administers dental anesthetics.
- 32 (7) Uses x-ray pictures for dental diagnostic purposes.
- 33 (8) Makes:
- 34 (A) oral images for the fabrication of a final restoration,
 35 impression, or cast;
 36 (B) impressions; or
 37 (C) casts of any oral tissues or structures;
 38 for the purpose of diagnosis or treatment thereof or for the
 39 construction, repair, reproduction, or duplication of any prosthetic
 40 device to alleviate or cure any oral lesion or replace any lost oral
 41 structures, tissue, or teeth.
- 42 (9) Advertises to the public by any method, except trade and



- 1 professional publications, to furnish, supply, construct, reproduce,
 2 repair, or adjust any prosthetic denture, bridge, appliance, or other
 3 structure to be worn in the human mouth.
- 4 (10) Is the employer of a dentist who is hired to provide dental
 5 services.
- 6 (11) Directs or controls the use of dental equipment or dental
 7 material while the equipment or material is being used to provide
 8 dental services. However, a person may lease or provide advice
 9 or assistance concerning dental equipment or dental material if
 10 the person does not restrict or interfere with the custody, control,
 11 or use of the equipment or material by the dentist. This
 12 subdivision does not prevent a dental hygienist who is licensed
 13 under IC 25-13 from owning dental equipment or dental materials
 14 within the dental hygienist's scope of practice.
- 15 (12) Directs, controls, or interferes with a dentist's clinical
 16 judgment.
- 17 (13) Exercises direction or control over a dentist through a written
 18 contract concerning the following areas of dental practice:
- 19 (A) The selection of a patient's course of treatment.
- 20 (B) Referrals of patients, except for requiring referrals to be
 21 within a specified provider network, subject to the exceptions
 22 under IC 27-13-36-5.
- 23 (C) Content of patient records.
- 24 (D) Policies and decisions relating to refunds, if the refund
 25 payment would be reportable under federal law to the National
 26 Practitioner Data Bank, and warranties.
- 27 (E) The clinical content of advertising.
- 28 (F) Final decisions relating to the employment of dental office
 29 personnel.
- 30 However, this subdivision does not prohibit a person from
 31 providing advice or assistance concerning the areas of dental
 32 practice referred to in this subdivision or an insurer (as defined in
 33 IC 27-1-26-1) from carrying out the applicable provisions of
 34 IC 27 under which the insurer is licensed.
- 35 However, a person does not have to be a dentist to be a manufacturer
 36 of dental prostheses.
- 37 (b) In addition to subsection (a), a person is practicing dentistry who
 38 directly or indirectly by any means or method furnishes, supplies,
 39 constructs, reproduces, repairs, or adjusts any prosthetic denture,
 40 bridge, appliance, or any other structure to be worn in the human
 41 mouth and delivers the resulting product to any person other than the
 42 duly licensed dentist upon whose written work authorization the work



1 was performed. A written work authorization shall include the
2 following:

- 3 (1) The name and address of the dental laboratory to which it is
4 directed.
- 5 (2) The case identification.
- 6 (3) A specification of the materials to be used.
- 7 (4) A description of the work to be done and, if necessary,
8 diagrams thereof.
- 9 (5) The date of issuance of the authorization.
- 10 (6) The signature and address of the licensed dentist or other
11 dental practitioner by whom the work authorization is issued.

12 A separate work authorization shall be issued for each patient of the
13 issuing licensed dentist or other dental practitioner for whom dental
14 technological work is to be performed.

15 (c) This section shall not apply to those procedures which a legally
16 licensed and practicing dentist may delegate to a dental assistant as to
17 which procedures the dentist exercises direct supervision and
18 responsibility.

19 (d) Procedures delegated by a dentist may not include the following:

- 20 (1) Those procedures which require professional judgment and
21 skill such as diagnosis, treatment planning, the cutting of hard or
22 soft tissues, or any intraoral impression which would lead to the
23 fabrication of a final prosthetic appliance.
- 24 (2) Except for procedures described in subsections (g) and (h),
25 procedures delegated to a dental assistant may not include
26 procedures allocated under IC 25-13-1 to a licensed dental
27 hygienist.

28 (e) This chapter shall not prevent dental students from performing
29 dental operations under the supervision of competent instructors within
30 the dental school or a university recognized by the board or in any
31 public clinic under the supervision of the authorized superintendent of
32 such clinic authorized under the authority and general direction of the
33 board of health or school board of any city or town in Indiana.

34 (f) Licensed pharmacists of this state may fill prescriptions of
35 licensed dentists of this state for any drug necessary in the practice of
36 dentistry.

37 (g) Notwithstanding IC 25-13-1-11(4), a dental assistant who has
38 completed a board approved curriculum may apply medicaments for
39 the control or prevention of dental caries under the direct supervision
40 of a licensed dentist. The curriculum must include instruction on the
41 following:

- 42 (1) Ethics and jurisprudence.

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- 1 (2) Reasons for fluorides.
- 2 (3) Systemic fluoride.
- 3 (4) Topical fluoride.
- 4 (5) Fluoride application.
- 5 (6) Laboratory work on topical fluoride applications and patient
- 6 competency.
- 7 (h) Notwithstanding IC 25-13-1-11(3), a dental assistant who has
- 8 completed a board approved curriculum may polish the coronal surface
- 9 of teeth under the direct supervision of a licensed dentist. The
- 10 curriculum must include instruction on the following:
- 11 (1) Ethics and jurisprudence.
- 12 (2) Plaque and materia alba.
- 13 (3) Intrinsic and extrinsic stain.
- 14 (4) Abrasive agents.
- 15 (5) Use of a slow speed hand piece, prophy cup, and occlusal
- 16 polishing brush.
- 17 (6) Theory of selective polishing.
- 18 (7) Laboratory work concerning slow speed hand piece, hand
- 19 dexterity, and patient competency.
- 20 SECTION 7. IC 25-14-4-4 IS AMENDED TO READ AS
- 21 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 4. **In addition to**
- 22 **the requirements under IC 25-1-10**, a for-profit dental referral
- 23 service that advertises must include in each advertisement an audible
- 24 or a written disclaimer revealing that:
- 25 (1) Each subscribing member of the for-profit dental referral
- 26 service is a dentist who has paid a fee to participate in the service.
- 27 (2) Dentists who are members of the for-profit dental referral
- 28 service are not more or less qualified than dentists who are not
- 29 members of the service.
- 30 SECTION 8. IC 25-14-4-5 IS AMENDED TO READ AS
- 31 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 5. **In addition to**
- 32 **the requirements under IC 25-1-10**, for-profit dental referral service
- 33 advertisements may not do any of the following:
- 34 (1) Misrepresent facts, be deceptive, or create false or misleading
- 35 impressions regarding the skills or abilities of subscribing
- 36 dentists.
- 37 (2) Contain statements or make recommendations concerning
- 38 nonspecific or non bona fide claims of providing referrals to the
- 39 most qualified dentists or dental practices.
- 40 (3) Describe:
- 41 (A) a review process;
- 42 (B) a screening; or



1 (C) qualifications or information verification;
2 that misleads the public into thinking a dentist subscriber has
3 obtained a special recognition or joined a selective group of
4 licensed dentists by being a member of the for-profit dental
5 referral service.

6 SECTION 9. IC 25-14-4-9 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 9. Before January
8 2, 1994, the state board of dentistry established by IC 25-14-1-2 shall
9 adopt rules under IC 4-22-2 that may include the following:

10 (1) Guidelines regarding the referral of subscribing dentists for
11 specialty services.

12 (2) Guidelines for ensuring that patient referrals by the for-profit
13 dental referral service must be initiated by a patient.

14 (3) Guidelines for ensuring that the for-profit dental referral
15 service does not impose a fee on the subscribing dentists
16 dependent upon the number of referrals or the amount of
17 professional fees paid by the patient to the dentist.

18 (4) Guidelines for ensuring there is a prohibition against for-profit
19 dental referral services limiting dentist subscribers solely on the
20 basis of a dentist's exclusive geographic location.

21 (5) Guidelines regarding dentists basing fees on services
22 performed with no additional fee charged because the patient is
23 a referral.

24 (6) Guidelines **consistent with IC 25-1-10** for preventing
25 for-profit dental referral service advertisements that are false,
26 misleading, or deceptive.

27 (7) Guidelines **consistent with IC 25-1-10** considering the
28 content of disclaimers required in section 4 of this chapter for
29 dental referral services that advertise on television or any other
30 medium that combine audio and video. Such guidelines may
31 require both audio and visual disclaimers.

32 (8) A procedure for a for-profit dental referral service to forward
33 complaints to the proper state authority.

34 (9) Appropriate safeguards to ensure that all subscribing dentists
35 are fairly selected for referrals on a rotating basis.

36 (10) Guidelines for ensuring that a for-profit dental referral
37 service must charge each subscribing dentist in the same
38 advertising market the same fee to become a member of the
39 service.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 462, 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 3, delete "JULY 1, 2015" and insert "JANUARY 1, 2016".

Page 1, line 7, delete "JULY 1, 2015" and insert "JANUARY 1, 2016".

Page 3, line 28, delete "JULY" and insert "JANUARY 1, 2016]:".

Page 3, delete line 29.

Page 3, line 31, after "1." insert "**This chapter is effective beginning January 1, 2016, and does not apply to any advertising communicated or otherwise disseminated before January 1, 2016.**

Sec. 2."

Page 3, line 31, after "means" insert "**the commercial use of**".

Page 3, line 32, after "that" insert "**is communicated or otherwise disseminated to the general public for the purpose of encouraging a person to use the practitioner's professional services and**".

Page 4, line 10, delete "2." and insert "3."

Page 4, line 14, delete "3." and insert "4."

Page 4, line 16, delete "4." and insert "5."

Page 4, line 29, delete "5." and insert "6."

Page 4, line 30, after "shall" insert "**prominently**".

Page 4, line 42, after "(1)" insert "**either:**

(A)".

Page 5, line 1, after ";" insert "**or**

(B) the physician uses a professional abbreviation that is commonly used by the board certified physicians to identify the board certification;".

Page 5, between lines 17 and 18, begin a new line blocked left and insert:

"A practitioner may use professional abbreviations in an advertisement if the abbreviation is commonly used by the practitioner's certifying board or by the practitioner to refer to the practitioner's license."

Page 5, after line 20, begin a new paragraph and insert:

"SECTION 4. IC 25-2.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 6. The board may deny, suspend, or revoke a license, require remedial education, or issue



a letter of reprimand, if an applicant or licensed acupuncturist does any of the following:

- (1) Engages in false or fraudulent conduct that demonstrates an unfitness to practice acupuncture, including:
 - (A) making a misrepresentation in connection with an application for a license or an investigation by the board;
 - (B) attempting to collect fees for services that were not performed;
 - (C) false advertising, including:
 - (i) **violating IC 25-1-10; or**
 - (ii) guaranteeing that a cure will result from an acupuncture treatment; or
 - (D) dividing, or agreeing to divide, a fee for acupuncture services with another person for referring the patient.
- (2) Fails to exercise proper control over the acupuncturist's practice by:
 - (A) aiding an unlicensed person in practicing acupuncture;
 - (B) delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform; or
 - (C) insufficiently supervising unlicensed personnel working with the acupuncturist in the practice.
- (3) Fails to maintain records in a proper manner by:
 - (A) failing to keep written records describing the course of treatment for each patient;
 - (B) refusing to provide upon request patient records that have been prepared for or paid for by the patient; or
 - (C) revealing personally identifiable information about a patient, without the patient's consent, unless otherwise allowed by law.
- (4) Fails to exercise proper care of a patient, including:
 - (A) abandoning or neglecting a patient without making reasonable arrangements for the continuation of care; or
 - (B) exercising or attempting to exercise undue influence within the relationship between the acupuncturist and the patient by making sexual advances or requests for sexual activity or by making submission to sexual conduct a condition of treatment.
- (5) Displays substance abuse or mental impairment to the degree that it interferes with the ability to provide safe and effective treatment.
- (6) Is convicted, pleads guilty, or pleads no contest to a crime that



demonstrates an unfitness to practice acupuncture.

(7) Fails, in a negligent manner, to practice acupuncture with the level of skill recognized within the profession as acceptable under the circumstances.

(8) Violates willfully any provision of this article or rule of the board.

(9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

SECTION 5. IC 25-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 3. Rules adopted under section 2(1) of this chapter shall **be consistent with IC 25-1-10 and** include the regulation of advice on advertising, promotions, office management, fraudulent or misleading billing practices, and practice building regarding patient volume.

SECTION 6. IC 25-14-1-23, AS AMENDED BY P.L.264-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 23. (a) A person is practicing dentistry within the meaning of this chapter if the person does any of the following:

(1) Uses the word "dentist" or "dental surgeon", the letters "D.D.S." or "D.M.D.", or other letters or titles in connection with dentistry.

(2) Directs and controls the treatment of patients within a place where dental services are performed.

(3) Advertises or permits to be advertised by sign, card, circular, handbill, newspaper, radio, or otherwise that the person:

(A) violates IC 25-1-10; or

(B) can or will attempt to perform dental operations of any kind.

(4) Offers to diagnose or professes to diagnose or treats or professes to treat any of the lesions or diseases of the human oral cavity, teeth, gingiva, or maxillary or mandibular structures.

(5) Extracts human teeth or corrects malpositions of the teeth or jaws.

(6) Except as provided in IC 25-13-1-10.5 and IC 25-13-1-10.6, administers dental anesthetics.

(7) Uses x-ray pictures for dental diagnostic purposes.

(8) Makes:

(A) oral images for the fabrication of a final restoration, impression, or cast;

(B) impressions; or



(C) casts of any oral tissues or structures; for the purpose of diagnosis or treatment thereof or for the construction, repair, reproduction, or duplication of any prosthetic device to alleviate or cure any oral lesion or replace any lost oral structures, tissue, or teeth.

(9) Advertises to the public by any method, except trade and professional publications, to furnish, supply, construct, reproduce, repair, or adjust any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

(10) Is the employer of a dentist who is hired to provide dental services.

(11) Directs or controls the use of dental equipment or dental material while the equipment or material is being used to provide dental services. However, a person may lease or provide advice or assistance concerning dental equipment or dental material if the person does not restrict or interfere with the custody, control, or use of the equipment or material by the dentist. This subdivision does not prevent a dental hygienist who is licensed under IC 25-13 from owning dental equipment or dental materials within the dental hygienist's scope of practice.

(12) Directs, controls, or interferes with a dentist's clinical judgment.

(13) Exercises direction or control over a dentist through a written contract concerning the following areas of dental practice:

(A) The selection of a patient's course of treatment.

(B) Referrals of patients, except for requiring referrals to be within a specified provider network, subject to the exceptions under IC 27-13-36-5.

(C) Content of patient records.

(D) Policies and decisions relating to refunds, if the refund payment would be reportable under federal law to the National Practitioner Data Bank, and warranties.

(E) The clinical content of advertising.

(F) Final decisions relating to the employment of dental office personnel.

However, this subdivision does not prohibit a person from providing advice or assistance concerning the areas of dental practice referred to in this subdivision or an insurer (as defined in IC 27-1-26-1) from carrying out the applicable provisions of IC 27 under which the insurer is licensed.

However, a person does not have to be a dentist to be a manufacturer of dental prostheses.



(b) In addition to subsection (a), a person is practicing dentistry who directly or indirectly by any means or method furnishes, supplies, constructs, reproduces, repairs, or adjusts any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth and delivers the resulting product to any person other than the duly licensed dentist upon whose written work authorization the work was performed. A written work authorization shall include the following:

- (1) The name and address of the dental laboratory to which it is directed.
- (2) The case identification.
- (3) A specification of the materials to be used.
- (4) A description of the work to be done and, if necessary, diagrams thereof.
- (5) The date of issuance of the authorization.
- (6) The signature and address of the licensed dentist or other dental practitioner by whom the work authorization is issued.

A separate work authorization shall be issued for each patient of the issuing licensed dentist or other dental practitioner for whom dental technological work is to be performed.

(c) This section shall not apply to those procedures which a legally licensed and practicing dentist may delegate to a dental assistant as to which procedures the dentist exercises direct supervision and responsibility.

(d) Procedures delegated by a dentist may not include the following:

- (1) Those procedures which require professional judgment and skill such as diagnosis, treatment planning, the cutting of hard or soft tissues, or any intraoral impression which would lead to the fabrication of a final prosthetic appliance.
- (2) Except for procedures described in subsections (g) and (h), procedures delegated to a dental assistant may not include procedures allocated under IC 25-13-1 to a licensed dental hygienist.

(e) This chapter shall not prevent dental students from performing dental operations under the supervision of competent instructors within the dental school or a university recognized by the board or in any public clinic under the supervision of the authorized superintendent of such clinic authorized under the authority and general direction of the board of health or school board of any city or town in Indiana.

(f) Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary in the practice of dentistry.



(g) Notwithstanding IC 25-13-1-11(4), a dental assistant who has completed a board approved curriculum may apply medicaments for the control or prevention of dental caries under the direct supervision of a licensed dentist. The curriculum must include instruction on the following:

- (1) Ethics and jurisprudence.
- (2) Reasons for fluorides.
- (3) Systemic fluoride.
- (4) Topical fluoride.
- (5) Fluoride application.
- (6) Laboratory work on topical fluoride applications and patient competency.

(h) Notwithstanding IC 25-13-1-11(3), a dental assistant who has completed a board approved curriculum may polish the coronal surface of teeth under the direct supervision of a licensed dentist. The curriculum must include instruction on the following:

- (1) Ethics and jurisprudence.
- (2) Plaque and materia alba.
- (3) Intrinsic and extrinsic stain.
- (4) Abrasive agents.
- (5) Use of a slow speed hand piece, prophy cup, and occlusal polishing brush.
- (6) Theory of selective polishing.
- (7) Laboratory work concerning slow speed hand piece, hand dexterity, and patient competency.

SECTION 7. IC 25-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 4. **In addition to the requirements under IC 25-1-10**, a for-profit dental referral service that advertises must include in each advertisement an audible or a written disclaimer revealing that:

- (1) Each subscribing member of the for-profit dental referral service is a dentist who has paid a fee to participate in the service.
- (2) Dentists who are members of the for-profit dental referral service are not more or less qualified than dentists who are not members of the service.

SECTION 8. IC 25-14-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 5. **In addition to the requirements under IC 25-1-10**, for-profit dental referral service advertisements may not do any of the following:

- (1) Misrepresent facts, be deceptive, or create false or misleading impressions regarding the skills or abilities of subscribing dentists.



(2) Contain statements or make recommendations concerning nonspecific or non bona fide claims of providing referrals to the most qualified dentists or dental practices.

(3) Describe:

(A) a review process;

(B) a screening; or

(C) qualifications or information verification;

that misleads the public into thinking a dentist subscriber has obtained a special recognition or joined a selective group of licensed dentists by being a member of the for-profit dental referral service.

SECTION 9. IC 25-14-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 9. Before January 2, 1994, the state board of dentistry established by IC 25-14-1-2 shall adopt rules under IC 4-22-2 that may include the following:

(1) Guidelines regarding the referral of subscribing dentists for specialty services.

(2) Guidelines for ensuring that patient referrals by the for-profit dental referral service must be initiated by a patient.

(3) Guidelines for ensuring that the for-profit dental referral service does not impose a fee on the subscribing dentists dependent upon the number of referrals or the amount of professional fees paid by the patient to the dentist.

(4) Guidelines for ensuring there is a prohibition against for-profit dental referral services limiting dentist subscribers solely on the basis of a dentist's exclusive geographic location.

(5) Guidelines regarding dentists basing fees on services performed with no additional fee charged because the patient is a referral.

(6) Guidelines **consistent with IC 25-1-10** for preventing for-profit dental referral service advertisements that are false, misleading, or deceptive.

(7) Guidelines **consistent with IC 25-1-10** considering the content of disclaimers required in section 4 of this chapter for dental referral services that advertise on television or any other medium that combine audio and video. Such guidelines may require both audio and visual disclaimers.

(8) A procedure for a for-profit dental referral service to forward complaints to the proper state authority.

(9) Appropriate safeguards to ensure that all subscribing dentists are fairly selected for referrals on a rotating basis.



(10) Guidelines for ensuring that a for-profit dental referral service must charge each subscribing dentist in the same advertising market the same fee to become a member of the service."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 462 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 11, Nays 0.

