

Amendment No. 1 to HB2451

Terry
Signature of Sponsor

AMEND Senate Bill No. 1720*

House Bill No. 2451

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, is amended by adding the following as a new part:

63-1-801. Short title.

This part is known and may be cited as the "Healthcare Provider Advertising Law."

63-1-802. Part definitions.

As used in this part:

(1) "Advertisement":

(A) Means a printed, electronic, or oral statement:

(i) That is communicated or disseminated to the general public;

(ii) That:

(a) Is intended to encourage a person to use a practitioner's professional services; or

(b) Names, for commercial purposes, a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides healthcare services; and

(iii) That the practitioner or the practitioner's group practice has control over the preparation, communication, or dissemination of the statement; and

(B) Includes the communication or dissemination as described in subdivision (1)(A) of any other communication or statement used in the course of business for the purpose of promoting a practitioner's services offered to the public;

(2) "Deceptive or misleading information":

(A) Means information that misrepresents or falsely describes a practitioner's profession, skill training, expertise, educational degree, or license; and

(B) Includes physicians claiming to be a specialist or a subspecialist in a named specialty of medicine without having completed the requisite postgraduate residency or fellowship in that field.

Acknowledged medical specialties are those listed by the Accreditation Council for Graduate Medical Education (ACGME) and American Osteopathic association (AOE);

(3) "Educational degree" means the degree awarded to the practitioner by a college or university related to the practitioner's profession, which may be used under the scope of the practitioner's license, including use of its acronym;

(4) "License" means the license, certification, registration, or other authorization from the healthcare practitioner's regulating entity that permits the healthcare practitioner to practice in this state;

(5) "Practitioner":

(A) Means an individual who holds a license pursuant to this title;
and

(B) Does not include a veterinarian licensed pursuant to the Tennessee Veterinary Practice Act, compiled in chapter 12 of this title; and

(6) "Profession":

(A) Means the name or title of the profession of which a practitioner is a member, as specifically allowed for use by individuals who hold a license, license by endorsement, certificate, or registration from a regulatory board under the board's governing statutes or rules; and

(B) Does not include the license or educational degree of a practitioner.

63-1-803. Requirements for practitioner advertising.

(a) An advertisement that includes a practitioner's name must prominently state the profession or license held by the practitioner.

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

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

(d) Subject to subsection (e), a practitioner who communicates or disseminates to the general public an advertisement that violates this section is subject to disciplinary sanctions by the board that issued the practitioner's license.

(e) This section does not prohibit the use of an advertisement using the practitioner's profession, title, or designation associated with the practitioner's educational degree if the advertisement meets the requirements of subsection (a).

SECTION 2. Tennessee Code Annotated, Section 63-6-204, is amended by adding the following as a new subsection:

(m) Except as provided in § 63-1-109, as used in this section, "practice of medicine":

(1) Includes attaching any of the following words or abbreviations to a name, either alone or in connection with other words or abbreviations indicating or inducing others to believe that the person is engaged in the practice of medicine or osteopathic medicine, including:

- (A) "Doctor of medicine";
- (B) "M.D.";
- (C) "Doctor of osteopathy";
- (D) "D.O.";
- (E) "Physician";
- (F) "Osteopath" or "osteopathy";
- (G) "Osteopathic medical physician";
- (H) "Surgeon";
- (I) "Physician and surgeon";
- (J) "Anesthesiologist" or "anesthesiology";
- (K) "Cardiologist" or "cardiology";
- (L) "Dermatologist" or "dermatology";
- (M) "Endocrinologist" or "endocrinology";
- (N) "Gastroenterologist" or "gastroenterology";
- (O) "Gynecologist" or "gynecology";
- (P) "Hematologist" or "hematology";
- (Q) "Internist";
- (R) "Laryngologist" or "laryngology";
- (S) "Nephrologist" or "nephrology";
- (T) "Neurologist" or "neurology";
- (U) "Obstetrician";
- (V) "Oncologist" or "oncology";
- (W) "Ophthalmologist" or "ophthalmology";

- (X) "Orthopedic surgeon";
- (Y) "Orthopedist";
- (Z) "Otologist";
- (AA) "Otolaryngologist";
- (BB) "Otorhinolaryngologist";
- (CC) "Pathologist" or "pathology";
- (DD) "Pediatrician";
- (EE) "Primary care physician";
- (FF) "Proctologist" or "proctology";
- (GG) "Psychiatrist";
- (HH) "Radiologist" or "radiology";
- (II) "Rheumatologist" or "rheumatology";
- (JJ) "Rhinologist" or "rhinology";
- (KK) "Urologist" or "urology";
- (LL) "Medical doctor";
- (MM) "Family practice physician";
- (NN) "Emergency physician" or "emergency medicine physician";
- (OO) "Osteopathic surgeon"; or
- (PP) "Allergy" or "allergist";

(2) Does not prohibit a practitioner from using the practitioner's name, title, or profession that is allowed under the practitioner's practice act or another state law; and

(3) Does not apply to an optometrist licensed in this state who is performing lawful services according to the definition of "practice of optometry as a profession," as defined in § 63-8-102, and the rules adopted by the board of optometry pursuant to that section.

SECTION 3. Tennessee Code Annotated, Section 63-1-109, is amended by deleting subdivision (a)(2) and substituting:

(2) "Dentist," "doctor of dental surgery," "oral surgeon," "doctor of dental medicine," "dentist anesthesiologist," and "anesthesiology" for practitioners of dentistry;

SECTION 4. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.