

1 H.494

2 Introduced by Representative Klein of East Montpelier

3 Referred to Committee on

4 Date:

5 Subject: Executive; secretary of state; professions and occupations; health care
6 professional transparency

7 Statement of purpose: This bill proposes to require health care professionals to
8 identify their title and license, certification, or registration type in
9 advertisements, handouts, and identification tags.

10 An act relating to health care professional transparency

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 26 V.S.A. chapter 25 is added to read:

13 CHAPTER 25. HEALTH CARE PROFESSIONAL TRANSPARENCY

14 § 1501. DEFINITIONS

15 For the purposes of this chapter:

16 (1) "Advertisement" means any communication or statement in printed,
17 electronic, or oral form that names a health care professional in connection
18 with his or her practice or profession or in connection with an institution in
19 which the individual is employed, volunteers, or otherwise provides health care
20 services. Advertisements include business cards, letterhead, patient brochures,

1 e-mail templates, websites, social media Internet presence, audio, video, and
2 any other communication or statement used in the ordinary course of business.

3 (2) “Deceptive” or “misleading” means any information used in an
4 advertisement or made in an affirmative communication or representation for
5 health care services that misstates, falsely describes, or falsely represents the
6 health care professional’s license type, education, skills, training, expertise,
7 education, licensure, certification, registration, or board certification.

8 (3) “Director” means the director of the office of professional
9 regulation.

10 (4) “Health care professional” shall have the same meaning as the term
11 “health care provider” as defined in 18 V.S.A. § 9402 and includes a podiatrist,
12 chiropractor, dentist, dental hygienist, medical doctor, nurse, nursing assistant,
13 advanced practice registered nurse (including a nurse practitioner, certified
14 nurse midwife, nurse anesthetist, and clinical nurse specialist), optometrist,
15 anesthesiologist assistant, physician assistant, osteopathic physician,
16 pharmacist, physical therapist, optician, radiologist assistant, occupational
17 therapist, occupational therapy assistant, dietitian, acupuncturist, naturopathic
18 physician, athletic trainer, midwife, respiratory care practitioner, radiologic
19 technologist, pharmacy technician, physical therapist assistant, psychologist,
20 clinical social worker, clinical mental health counselor, audiologist, speech

1 language pathologist, psychotherapist, psychoanalyst, and marriage and family
2 therapist.

3 (5) "Regulatory entity" means the board, office, or department
4 responsible for licensing, certifying, or registering health care professionals.

5 § 1502. TRANSPARENCY REQUIREMENTS

6 (a) An advertisement for health care services shall identify the type of
7 license, certification, or registration held by the health care professional who is
8 advertising or who is referenced in the advertisement. The advertisement shall
9 be consistent with the definitions, titles, and initials the health care professional
10 is authorized or required to use under his or her regulatory law. The
11 advertisement shall be free from any and all deceptive or misleading
12 information.

13 (b)(1) A health care professional providing health care services in Vermont
14 shall include the health care professional's type of license, certification, or
15 registration in notices, forms, or other handouts presented to patients,
16 prospective patients, or patient representatives. Information about the type of
17 license, certification, or registration shall be placed prominently on the handout
18 and shall be of sufficient size so as to be readily readable to patients.

19 (2) A health care professional who works exclusively in nonpatient care
20 settings and who does not have any direct patient care interactions shall not be
21 subject to the provisions of subdivision (1) of this subsection.

1 § 1503. ENFORCEMENT

2 (a) Failure to comply with any provision of this chapter shall constitute
3 unprofessional conduct pursuant to a health care professional's regulatory law.

4 (b) At its discretion, a regulatory entity may inspect and audit a health care
5 professional's records and office to determine compliance with the
6 transparency requirements set forth in section 1502 of this title.

7 (c) The attorney general shall investigate any complaints against a health
8 care professional alleged to have deceived or misled a patient or the public by
9 holding himself or herself out as practicing a profession that he or she is not
10 authorized to practice. The attorney general shall determine whether the
11 allegation against the health care professional constitutes unauthorized
12 practice.

13 Sec. 2. ADOPTION OF RULES REGARDING IDENTIFICATION TAGS

14 (a) Except as provided in subsection (c) of this section, by January 1, 2014,
15 the office of professional regulation and the department of health shall adopt
16 rules requiring health care professionals regulated by them to wear photo
17 identification tags disclosing the professional's license, certification, or
18 registration type to patients, prospective patients, and patient representatives.

19 (1) The photo identification tag shall include a recent photograph of the
20 health care professional, the professional's name, and the professional's title
21 and the license, certification, or registration type.

1 (2) The title of the health care professional shall be as large as possible
2 in block type and shall occupy a one-half-inch-tall strip as close as practicable
3 to the bottom edge of the identification tag.

4 (3)(A) The license types set forth in this subdivision shall have the
5 following titles:

6 (i) A medical doctor shall have the title “Physician.”

7 (ii) A doctor of osteopathy shall have the title “Physician.”

8 (iii) A registered nurse shall have the title “Registered Nurse.”

9 (iv) A licensed practical nurse shall have the title “Licensed
10 Practical Nurse.”

11 (B) For every other health care professional not identified in
12 subdivision (3)(A) of this subsection (a), the regulatory entity shall determine
13 the title required to be used for the purposes of this subsection.

14 (b) The rules adopted pursuant to subsection (a) of this section shall
15 specifically authorize a regulatory entity, at its discretion, to inspect and audit a
16 health care professional’s office to determine compliance with the
17 identification tag requirements of subsection (a) of this section.

18 (c) The rules adopted pursuant to subsection (a) of this section shall
19 specifically exempt from the identification tag requirements set forth in
20 subsection (a) a health care professional who works exclusively in nonpatient
21 care settings and who does not have any direct patient care interactions.

1 (d) For purposes of this section, “health care professional” and “regulatory
2 entity” shall have the same meanings as those terms are defined in Sec. 1,
3 26 V.S.A. § 1501, of this act.

4 Sec. 3. EFFECTIVE DATES

5 (a) Sec. 1 of this act shall take effect on January 1, 2014.

6 (b) Sec. 2 of this act and this section shall take effect on passage.