

The House Committee on Health offers the following substitute to SB 197:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to professions and businesses, so as to prohibit deceptive or
3 misleading terms or false representations by health care practitioners in advertisements and
4 representations; to prohibit the misappropriation of medical or medical specialty titles by
5 health care practitioners in advertisements and representations; to provide for definitions; to
6 provide for statutory construction; to provide for related matters; to provide for a short title;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Health Care Practitioners Truth and
11 Transparency Act."

12 **SECTION 2.**

13 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
14 provisions relative to professions and businesses, is amended by revising Code Section

S. B. 197 (SUB)

43-1-33, relating to advertisement, signage, and identifier requirements for health care practitioners, as follows:

"43-1-33.

(a) This ~~Act~~ Code section shall be known and may be cited as the 'Consumer Information and Awareness Act.'

(b) The General Assembly hereby finds and declares that:

(1) There are numerous professional degrees that include the term 'doctor,' such as Doctor of Medicine (M.D.); Doctor of Osteopathy (D.O.); Doctor of Osteopathic Medicine; Doctor of Dental Surgery (D.D.S.); Doctor of Dental Medicine (D.M.D.); Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (O.D.); Doctor of Chiropractic (D.C.); registered professional nurses or advanced practice registered nurses (nurse practitioners, clinical nurse specialists, certified nurse midwives, and certified nurse anesthetists) with doctorate degrees (D.N.P., D.N.S., Ph.D., or Ed.D.); audiologists with doctorate degrees (A.U.D.); speech-language pathologists with doctorate degrees (S.L.P.D. or Ph.D.); and other designations, which may be used by health care practitioners; and

(2) Each health care professional receives education and training that qualifies them to provide general and specialized services respectively. This training is necessary to correctly detect, diagnose, prevent, and treat serious health conditions.

(c) As used in this Code section, the term:

(1) 'Advertisement' means any communication or statement, whether printed, electronic, ~~or verbal, or in any way disseminated to the general public or to other health care practitioners,~~ that names a health care practitioner ~~in relation to his or her~~ or the practice, profession, or institution in which the practitioner is employed, volunteers, or otherwise provides health care services. ~~This term includes business cards, letterhead, patient brochures, e-mail, Internet, audio, and video.~~

41 (2) 'Clinical setting' means any location, whether physical or virtual, in which a person
42 is evaluated, diagnosed, counseled, or treated for any disease, defect, or injury.

43 (3) 'Deceptive or misleading terms or false representations' includes, but is not limited
44 to, the use of titles, terms, or other words that misstate, falsely describe, falsely hold out,
45 falsely detail, or falsely imply the health care practitioner's:

46 (A) Profession;

47 (B) Skills;

48 (C) Training;

49 (D) Expertise;

50 (E) Educational degree;

51 (F) Board certification;

52 (G) Licensure;

53 (H) Work or services offered; or

54 (I) Medical field, if such practitioner is not a physician licensed pursuant to Article 2
55 of Chapter 34 of this title.

56 ~~(2)~~(4) 'Health care practice or facility' means a hospital, physician practice setting,
57 nursing home, assisted living community, or personal care home.

58 ~~(3)~~(5) 'Health care practitioner' means a:

59 (A) Chiropractor licensed pursuant to Chapter 9 of this title;

60 (B) Professional counselor, social worker, or marriage and family therapist licensed
61 pursuant to Chapter 10A of this title;

62 (C) Dentist licensed pursuant to Chapter 11 of this title;

63 (D) Dietitian licensed or registered pursuant to Chapter 11A of this title;

64 (E) Advanced practice registered nurse, including nurse practitioner, certified
65 registered nurse anesthetist, certified nurse midwife, clinical nurse specialist, registered
66 professional nurse, and licensed practical nurse, licensed or registered pursuant to
67 Chapter 26 of this title;

- (F) Occupational therapist licensed pursuant to Chapter 28 of this title;
- (G) Optometrist licensed pursuant to Chapter 30 of this title;
- (H) Physical therapist licensed pursuant to Chapter 33 of this title;
- (I) Allopathic physician or osteopathic physician ~~Physician or osteopath~~ licensed pursuant to Chapter 34 of this title;
- (J) Physician assistant licensed pursuant to Chapter 34 of this title;
- (K) Acupuncturist licensed pursuant to Chapter 34 of this title;
- (L) Podiatrist licensed pursuant to Chapter 35 of this title;
- (M) Psychologist licensed pursuant to Chapter 39 of this title;
- (N) Audiologist or speech-language pathologist licensed pursuant to Chapter 44 of this title;
- (O) Pharmacist licensed pursuant to Chapter 4 of Title 26;
- (P) Ophthalmic technician;
- (Q) Medical assistant or certified nursing assistant; and
- (R) Respiratory care professional certified pursuant to Article 6 of Chapter 34 of this title.
- (6) 'Medical or medical specialty title' means any title that originates from or is a derivation of specialty or subspecialty training or certification attained by a physician through completion of nationally accredited medical education culminating in a Doctor of Medicine or Doctor of Osteopathic Medicine degree; completion of a physician internship, residency, or fellowship training program; or any combination thereof.
- (d)(1) An advertisement by a health care practitioner shall ~~identify~~ include the practitioner's name and disclose only the type of license under which the health care practitioner ~~holds~~ is authorized to provide services.
- (2) An advertisement by a health care practitioner shall not:
- (A) Include deceptive or misleading terms or false representations; or

(B) Include or reference medical or medical specialty titles, unless such health care practitioner is a physician licensed pursuant to Article 2 of Chapter 34 of this title.

~~(2)(3) This subsection shall not apply to an advertisement by a health care practice or facility and shall not be construed to require any such a health care practice or facility in which multiple health care practitioners are employed to list in an advertisement the name of every health care practitioner so employed by such practice or facility.~~

(d.1)(1) An advanced practice registered nurse shall verbally identify himself or herself as an advanced practice registered nurse during each patient interaction in a clinical setting. An advanced practice registered nurse who holds a doctorate degree and identifies himself or herself with the title 'doctor' while in a clinical setting shall clearly state that he or she is not a medical doctor or physician.

(2) A physician assistant shall verbally identify himself or herself as a physician assistant during each patient interaction in a clinical setting. A physician assistant who holds a doctorate degree and identifies himself or herself with the title 'doctor' while in a clinical setting shall clearly state that he or she is not a medical doctor or physician.

(3) No health care practitioner shall identify or refer to himself or herself in a clinical setting with:

(A) Deceptive or misleading terms or false representations; or

(B) Any medical or medical specialty titles, unless such health care practitioner is a physician licensed pursuant to Article 2 of Chapter 34 of this title.

(e)(1) A health care practitioner providing services in this state in a health care practice or facility shall conspicuously post and affirmatively communicate the practitioner's specific licensure to all current and prospective patients as follows:

(A)(i) The health care practitioner shall wear an identifier during all patient encounters that shall include:

(I) The health care practitioner's name; and

(II) The type of license or educational degree the health care practitioner holds.

(ii) The identifier shall be of sufficient size and be worn in a conspicuous manner so as to be visible and apparent. A lab coat or similar distinguishing clothing or uniform indicating the practitioner's specific licensure may be considered an identifier if such clothing or uniform meets the requirements of division (i) of this subparagraph.

(iii) An identifier shall not be required in an operating room or other setting where surgical or other invasive procedures are performed or in any other setting where maintaining a sterile environment is medically necessary.

(iv) An identifier shall not be required in any mental health setting where it would impede the psychotherapeutic relationship.

(v) If a safety or health risk to the health care practitioner or a patient would be created as a result of the practitioner wearing such identifier in a specified practice setting, an identifier shall not be required or may be modified by omitting or concealing the last name of the practitioner in accordance with the requirements of the health care practice or facility; and

(B) A health care practitioner in a health care practice or facility other than a hospital shall display in the reception area of such practice or facility a notice that clearly identifies the type of health care practitioners employed in such practice or facility and the right of a patient to inquire as to the type of license of the health care practitioner treating such patient. The notice shall be of sufficient size so as to be visible and apparent to all current and prospective patients.

(2) A health care practitioner who practices in more than one office shall place the identifier information conspicuously on such practitioner's website if he or she maintains a website.

(3) A health care practitioner who practices in a nonpatient care setting and who does not have any direct patient care interactions shall not be subject to the provisions of this subsection.

(4) A health care practice or facility which requires, as of the effective date of this Code section, its health care practitioners to wear an identification badge shall not be required to replace such badges to conform to the requirements of subparagraph (A) of paragraph (1) of this subsection.

(5) Except as otherwise provided by paragraph (6) of this subsection, this subsection shall only apply to health care practices and facilities where more than one type of health care practitioner interacts with patients in exam settings. This subsection shall not apply to health care practices or facilities in which only one type of health care practitioner practices.

(6) This subsection shall only apply to a dentist if such dentist is practicing in a hospital. This subsection shall only apply to a chiropractor or optometrist if such chiropractor or optometrist is practicing in a hospital, nursing home, assisted living community, or personal care home.

(f) A health care practitioner who intentionally violates any provision of this Code section may be subject to disciplinary action by the health care practitioner's professional licensing board. Notwithstanding the imposition of any sanction, the health care practitioner's professional licensing board may seek an injunction or other legal means as appropriate against such health care practitioner violating this Code section.

(g) A violation of this Code section shall not constitute a private cause of action.

(h) Nothing in this Code section shall be construed to prevent a health care practitioner from using any title or abbreviation which is statutorily authorized for such practitioner pursuant to his or her respective licensing statutes."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.