

HOUSE BILL 957

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2lr2532
CF SB 395

By: **Delegates Cullison, Bromwell, Frank, Kach, A. Kelly, Krebs, Luedtke, Murphy, Oaks, Reznik, Tarrant, and V. Turner**

Introduced and read first time: February 10, 2012

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations – Public Disclosure of Professional Credentials and**
3 **Reports on Advertising Regulations and Policies**

4 FOR the purpose of ~~requiring certain advertisements for health care services to~~
5 ~~identify and fully spell out the license or certification of certain health care~~
6 ~~practitioners; prohibiting a certain advertisement from being misleading;~~
7 ~~specifying what constitutes a misleading advertisement under this Act;~~
8 ~~requiring certain health care practitioners to disclose the practitioner's~~
9 ~~licensure or certification by wearing a certain identification tag; providing for~~
10 ~~the application of a certain provision of this Act; providing that health care~~
11 ~~practitioners that fail to comply with certain provisions of this Act are subject to~~
12 ~~certain disciplinary actions; authorizing the appropriate regulatory board to~~
13 ~~investigate an alleged violation of certain provisions of this Act; requiring~~
14 ~~certain regulatory boards to adopt certain regulations;~~ prohibiting a physician
15 from making certain representations to the public under certain circumstances;
16 authorizing the Board to approve a certain certifying board if the certifying
17 board requires certain physicians to meet certain qualifications; altering the
18 authority of a physician to advertise; ~~defining certain terms;~~ requiring certain
19 health occupation boards to submit certain information related to advertising by
20 health care practitioners to certain committees of the General Assembly on or
21 before a certain date; and generally relating to the public disclosure of
22 professional credentials by health care practitioners.

23 ~~BY adding to~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Article – Health Occupations~~
 2 ~~Section 1-701 through 1-705 to be under the new subtitle “Subtitle 7. Public~~
 3 ~~Disclosure of Professional Credentials”~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2009 Replacement Volume and 2011 Supplement)~~

6 BY repealing and reenacting, with amendments,
 7 Article – Health Occupations
 8 Section 14-503
 9 Annotated Code of Maryland
 10 (2009 Replacement Volume and 2011 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Health Occupations**

14 ~~**SUBTITLE 7. PUBLIC DISCLOSURE OF PROFESSIONAL CREDENTIALS.**~~

15 ~~**1-701.**~~

16 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
 17 ~~INDICATED.~~

18 ~~(B) “ADVERTISEMENT” MEANS ANY PRINTED, ELECTRONIC, OR ORAL~~
 19 ~~COMMUNICATION OR STATEMENT THAT INCLUDES THE NAME OF A HEALTH~~
 20 ~~CARE PRACTITIONER IN RELATION TO:~~

21 ~~(1) THE HEALTH CARE PRACTITIONER’S PRACTICE OR~~
 22 ~~PROFESSION; OR~~

23 ~~(2) THE HEALTH CARE FACILITY AT WHICH THE HEALTH CARE~~
 24 ~~PRACTITIONER IS EMPLOYED, VOLUNTEERS, OR OTHERWISE PROVIDES HEALTH~~
 25 ~~CARE SERVICES.~~

26 ~~(C) “HEALTH CARE ENTITY” MEANS A BUSINESS ENTITY THAT~~
 27 ~~PROVIDES HEALTH CARE SERVICES FOR THE:~~

28 ~~(1) TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN DISEASE OR~~
 29 ~~DYSFUNCTION; OR~~

30 ~~(2) DISPENSING OF DRUGS, MEDICAL DEVICES, MEDICAL~~
 31 ~~APPLIANCES, OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR~~
 32 ~~DYSFUNCTION.~~

1 ~~(E) "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS~~
2 ~~LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE TO~~
3 ~~PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS,~~
4 ~~PRACTICE, OR THE PROFESSION.~~

5 ~~(F) "HEALTH CARE SERVICE" MEANS MEDICAL PROCEDURES, TESTS,~~
6 ~~AND SERVICES PROVIDED TO A PATIENT BY OR THROUGH A HEALTH CARE~~
7 ~~ENTITY.~~

8 ~~1-702.~~

9 ~~(A) AN ADVERTISEMENT FOR HEALTH CARE SERVICES THAT NAMES A~~
10 ~~HEALTH CARE PRACTITIONER:~~

11 ~~(1) SHALL IDENTIFY AND FULLY SPELL OUT THE LICENSE OR~~
12 ~~CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER; AND~~

13 ~~(2) MAY NOT BE MISLEADING.~~

14 ~~(B) AN ADVERTISEMENT IS MISLEADING FOR THE PURPOSES OF~~
15 ~~SUBSECTION (A) OF THIS SECTION IF THE HEALTH CARE PRACTITIONER~~
16 ~~KNOWINGLY AND WILLFULLY INCLUDES IN THE ADVERTISEMENT A~~
17 ~~COMMUNICATION OR REPRESENTATION THAT:~~

18 ~~(1) MISSTATES OR FALSELY DESCRIBES THE HEALTH CARE~~
19 ~~PRACTITIONER'S PROFESSION, SKILLS, TRAINING, EXPERTISE, EDUCATION,~~
20 ~~LICENSURE, OR CERTIFICATION; OR~~

21 ~~(2) HOLDS THE HEALTH CARE PRACTITIONER OUT AS HAVING~~
22 ~~SKILLS, TRAINING, EXPERTISE, EDUCATION, LICENSURE, OR CERTIFICATION~~
23 ~~THAT THE HEALTH CARE PRACTITIONER DOES NOT HAVE.~~

24 ~~1-703.~~

25 ~~(A) THIS SECTION DOES NOT APPLY TO A HEALTH CARE PRACTITIONER~~
26 ~~WHO WORKS IN A NONPATIENT CARE SETTING OR WHO DOES NOT DIRECTLY~~
27 ~~INTERACT WITH PATIENTS.~~

28 ~~(B) A HEALTH CARE PRACTITIONER WHO PROVIDES HEALTH CARE~~
29 ~~SERVICES SHALL DISCLOSE THE HEALTH CARE PRACTITIONER'S LICENSURE OR~~
30 ~~CERTIFICATION BY WEARING AN IDENTIFICATION TAG DURING A PATIENT~~
31 ~~ENCOUNTER.~~

~~(C) THE IDENTIFICATION TAG REQUIRED TO BE WORN UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE, IN A FONT SIZE THAT CAN BE EASILY READ BY A PATIENT, THE FOLLOWING:~~

~~(1) THE FIRST AND LAST NAME OF THE HEALTH CARE PRACTITIONER; AND~~

~~(2) THE FULL SPELLING OF THE TYPE OF LICENSE OR CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER.~~

~~1-704.~~

~~EACH REGULATORY BOARD UNDER THIS ARTICLE SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~1-705.~~

~~(A) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE SHALL BE SUBJECT TO DISCIPLINARY ACTION BY THE APPROPRIATE REGULATORY BOARD.~~

~~(B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE AN ALLEGED VIOLATION OF THIS SUBTITLE IN ACCORDANCE WITH THE INVESTIGATIVE AUTHORITY GRANTED UNDER THIS ARTICLE.~~

14-503.

(A) A PHYSICIAN MAY NOT REPRESENT TO THE PUBLIC, ~~THROUGH AN ADVERTISEMENT,~~ THAT THE PHYSICIAN IS CERTIFIED BY A PUBLIC OR PRIVATE BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, OR THAT THE PHYSICIAN IS BOARD CERTIFIED UNLESS:

(1) ~~THE ADVERTISEMENT INCLUDES~~ PHYSICIAN DISCLOSES THE FULL NAME OF THE BOARD FROM WHICH THE PHYSICIAN IS CERTIFIED AND THE NAME OF THE SPECIALTY OR SUBSPECIALTY IN WHICH THE PHYSICIAN IS CERTIFIED; AND

(2) THE CERTIFYING BOARD MEETS ONE OF THE FOLLOWING REQUIREMENTS:

(I) THE CERTIFYING BOARD IS:

1. A MEMBER OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES; OR

1 2. AN AMERICAN OSTEOPATHIC ASSOCIATION
2 CERTIFYING BOARD;

3 (II) THE CERTIFYING BOARD HAS BEEN APPROVED BY THE
4 BOARD; OR

5 (III) THE CERTIFYING BOARD REQUIRES THAT, IN ORDER TO
6 BE CERTIFIED, THE PHYSICIAN, IN ORDER TO BE CERTIFIED, COMPLETE:

7 1. COMPLETE A POSTGRADUATE TRAINING
8 PROGRAM THAT:

9 ~~1.~~ A. PROVIDES COMPLETE TRAINING IN THE
10 SPECIALTY OR SUBSPECIALTY; AND

11 ~~2.~~ B. IS ACCREDITED BY THE ACCREDITATION
12 COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN
13 OSTEOPATHIC ASSOCIATION; AND

14 2. BE CERTIFIED BY THE MEMBER BOARD OF THE
15 AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN
16 OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.

17 (B) THE BOARD MAY APPROVE A CERTIFYING BOARD UNDER
18 SUBSECTION (A)(2)(II) OF THIS SECTION ONLY IF THE CERTIFYING BOARD
19 REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE PHYSICIAN:

20 (1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

21 (1) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR
22 SUBSPECIALTY BEING CERTIFIED; AND

23 (2) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR
24 GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC
25 ASSOCIATION; AND

26 (2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL
27 SPECIALTIES OR AMERICAN OSTEOPATHIC ASSOCIATION IN THE SAME
28 TRAINING FIELD.

29 ~~(B)~~ (C) A physician may advertise only as permitted by the rules and
30 regulations of the Board ~~AND IN ACCORDANCE WITH~~ SUBJECT TO SUBSECTION (A)
31 OF THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December
2 31, 2012, each health occupation board established under the Health Occupations
3 Article shall submit any existing regulations or policies governing advertising by the
4 health care practitioners regulated by the board to the Senate Education, Health, and
5 Environmental Affairs Committee and the House Health and Government Operations
6 Committee.

7 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.