

# SENATE BILL 395

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By: **Senator Jennings**

Introduced and read first time: February 1, 2012

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Public Disclosure of Professional Credentials**

3 FOR the purpose of requiring certain advertisements for health care services to  
4 identify and fully spell out the license or certification of certain health care  
5 practitioners; prohibiting a certain advertisement from being misleading;  
6 specifying what constitutes a misleading advertisement under this Act;  
7 requiring certain health care practitioners to disclose the practitioner’s  
8 licensure or certification by wearing a certain identification tag; providing for  
9 the application of a certain provision of this Act; providing that health care  
10 practitioners that fail to comply with certain provisions of this Act are subject to  
11 certain disciplinary actions; authorizing the appropriate regulatory board to  
12 investigate an alleged violation of certain provisions of this Act; requiring  
13 certain regulatory boards to adopt certain regulations; prohibiting a physician  
14 from making certain representations to the public under certain circumstances;  
15 altering the authority of a physician to advertise; defining certain terms; and  
16 generally relating to the public disclosure of professional credentials by health  
17 care practitioners.

18 BY adding to

19 Article – Health Occupations

20 Section 1–701 through 1–705 to be under the new subtitle “Subtitle 7. Public  
21 Disclosure of Professional Credentials”

22 Annotated Code of Maryland

23 (2009 Replacement Volume and 2011 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Health Occupations

26 Section 14–503

27 Annotated Code of Maryland

28 (2009 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health Occupations**

4 **SUBTITLE 7. PUBLIC DISCLOSURE OF PROFESSIONAL CREDENTIALS.**

5 **1-701.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

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

11 (1) THE HEALTH CARE PRACTITIONER’S PRACTICE OR  
12 PROFESSION; OR

13 (2) THE HEALTH CARE FACILITY AT WHICH THE HEALTH CARE  
14 PRACTITIONER IS EMPLOYED, VOLUNTEERS, OR OTHERWISE PROVIDES HEALTH  
15 CARE SERVICES.

16 (C) “HEALTH CARE ENTITY” MEANS A BUSINESS ENTITY THAT  
17 PROVIDES HEALTH CARE SERVICES FOR THE:

18 (1) TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN DISEASE OR  
19 DYSFUNCTION; OR

20 (2) DISPENSING OF DRUGS, MEDICAL DEVICES, MEDICAL  
21 APPLIANCES, OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR  
22 DYSFUNCTION.

23 (E) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS  
24 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE TO  
25 PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS,  
26 PRACTICE, OR THE PROFESSION.

27 (F) “HEALTH CARE SERVICE” MEANS MEDICAL PROCEDURES, TESTS,  
28 AND SERVICES PROVIDED TO A PATIENT BY OR THROUGH A HEALTH CARE  
29 ENTITY.

30 **1-702.**

1           **(A) AN ADVERTISEMENT FOR HEALTH CARE SERVICES THAT NAMES A**  
2 **HEALTH CARE PRACTITIONER:**

3           **(1) SHALL IDENTIFY AND FULLY SPELL OUT THE LICENSE OR**  
4 **CERTIFICATION HELD BY THE HEALTH CARE PRACTITIONER; AND**

5           **(2) MAY NOT BE MISLEADING.**

6           **(B) AN ADVERTISEMENT IS MISLEADING FOR THE PURPOSES OF**  
7 **SUBSECTION (A) OF THIS SECTION IF THE HEALTH CARE PRACTITIONER**  
8 **KNOWINGLY AND WILLFULLY INCLUDES IN THE ADVERTISEMENT A**  
9 **COMMUNICATION OR REPRESENTATION THAT:**

10           **(1) MISSTATES OR FALSELY DESCRIBES THE HEALTH CARE**  
11 **PRACTITIONER'S PROFESSION, SKILLS, TRAINING, EXPERTISE, EDUCATION,**  
12 **LICENSURE, OR CERTIFICATION; OR**

13           **(2) HOLDS THE HEALTH CARE PRACTITIONER OUT AS HAVING**  
14 **SKILLS, TRAINING, EXPERTISE, EDUCATION, LICENSURE, OR CERTIFICATION**  
15 **THAT THE HEALTH CARE PRACTITIONER DOES NOT HAVE.**

16 **1-703.**

17           **(A) THIS SECTION DOES NOT APPLY TO A HEALTH CARE PRACTITIONER**  
18 **WHO WORKS IN A NONPATIENT CARE SETTING OR WHO DOES NOT DIRECTLY**  
19 **INTERACT WITH PATIENTS.**

20           **(B) A HEALTH CARE PRACTITIONER WHO PROVIDES HEALTH CARE**  
21 **SERVICES SHALL DISCLOSE THE HEALTH CARE PRACTITIONER'S LICENSURE OR**  
22 **CERTIFICATION BY WEARING AN IDENTIFICATION TAG DURING A PATIENT**  
23 **ENCOUNTER.**

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

27           **(1) THE FIRST AND LAST NAME OF THE HEALTH CARE**  
28 **PRACTITIONER; AND**

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

31 **1-704.**

1           **EACH REGULATORY BOARD UNDER THIS ARTICLE SHALL ADOPT**  
2 **REGULATIONS TO IMPLEMENT THIS SUBTITLE.**

3 **1-705.**

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

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

10 **14-503.**

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

15                   **(1) THE ADVERTISEMENT INCLUDES THE FULL NAME OF THE**  
16 **BOARD FROM WHICH THE PHYSICIAN IS CERTIFIED AND THE NAME OF THE**  
17 **SPECIALTY OR SUBSPECIALTY IN WHICH THE PHYSICIAN IS CERTIFIED; AND**

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

20                           **(I) THE CERTIFYING BOARD IS:**

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

23                                   **2. AN AMERICAN OSTEOPATHIC ASSOCIATION**  
24 **CERTIFYING BOARD;**

25                           **(II) THE CERTIFYING BOARD HAS BEEN APPROVED BY THE**  
26 **BOARD; OR**

27                           **(III) THE CERTIFYING BOARD REQUIRES THAT THE**  
28 **PHYSICIAN, IN ORDER TO BE CERTIFIED, COMPLETE A POSTGRADUATE**  
29 **TRAINING PROGRAM THAT:**

1                                   **1. PROVIDES COMPLETE TRAINING IN THE**  
2 **SPECIALTY OR SUBSPECIALTY; AND**

3                                   **2. IS ACCREDITED BY THE ACCREDITATION**  
4 **COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN**  
5 **OSTEOPATHIC ASSOCIATION.**

6                   **(B)** A physician may advertise only as permitted by the rules and regulations  
7 of the Board **AND IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

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