

Chapter 224

(Senate Bill 395)

AN ACT concerning

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

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

~~BY adding to~~

~~Article – Health Occupations~~

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

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-503

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

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

~~1-701.~~

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

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

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

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

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

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

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

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

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

~~1-702.~~

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

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

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

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

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

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

~~1-703.~~

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

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

2. AN AMERICAN OSTEOPATHIC ASSOCIATION CERTIFYING BOARD;

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

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

1. COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

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

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

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

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

(1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

(I) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY BEING CERTIFIED; AND

(II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION; AND

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

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

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

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

Approved by the Governor, May 2, 2012.