

SENATE, No. 2144

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Requires certain disclosures in advertisements by health care professionals.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring certain disclosures by certain health care
2 professionals and supplementing chapter 1 of Title 45 of the
3 Revised Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. As used in this act:

9 "Advertisement" means any attempt to induce any person or
10 entity to purchase services through publication, dissemination, or
11 circulation in print, including newspapers, magazines, periodicals,
12 professional journals, telephone directories, circulars, handbills,
13 flyers, billboards, and signs, or electronic media, including radio,
14 television, and Internet.

15 "Deceptive" or "misleading" includes, but is not limited to, any
16 advertisement or affirmative communication or representation that
17 misstates, falsely describes, holds out, or falsely details the health
18 care practitioner's profession, skills, training, expertise, education,
19 board certification or licensure.

20 "Health care professional" means a person licensed or otherwise
21 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to
22 practice a health care profession that is regulated by one of the
23 following entities: the State Board of Medical Examiners, the New
24 Jersey Board of Nursing, the New Jersey State Board of Dentistry,
25 the New Jersey State Board of Optometrists, the Board of
26 Pharmacy, the State Board of Chiropractic Examiners, the
27 Acupuncture Examining Board, the State Board of Physical
28 Therapy Examiners, the Orthotics and Prosthetics Board of
29 Examiners, the State Board of Psychological Examiners, the State
30 Board of Examiners of Ophthalmic Dispensers and Ophthalmic
31 Technicians, the Audiology and Speech-Language Pathology
32 Advisory Committee, the Occupational Therapy Advisory Council
33 and the Certified Psychoanalysts Advisory Committee, or other
34 licensed professional as determined by the Division of Consumer
35 Affairs in the Department of Law and Public Safety.

36 "Health care professional" shall not include a person who
37 provides professional medical services to enrollees of a health
38 benefits plan that exclusively contracts with a single medical group
39 in a specific geographic area to provide or arrange for professional
40 medical services for the enrollees of the plan.

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42 2. a. A health care professional who places, or causes to be
43 placed, an advertisement for that health care professional's services
44 shall include in that advertisement the health care professional's
45 name, and the full name of the professional's State-granted license
46 type, except that physicians licensed to practice medicine and
47 surgery may use the abbreviation "MD" or "DO" to describe their
48 license.

1 b. A health care professional who provides information
2 regarding health care services on an Internet website that is directly
3 controlled or administered by the health care professional, or that
4 health care professional's office personnel, shall prominently
5 display on that Internet website the health care professional's name,
6 and the full name of the professional's State-granted license type,
7 except that physicians licensed to practice medicine and surgery
8 may use the abbreviation "MD" or "DO" to describe their license.

9 c. A health care professional who includes the phrase "board
10 certified" in an advertisement may only advertise that certification
11 if the full name of the certifying board or association and the full
12 name of the specialty or sub-specialty is included, and the certifying
13 board or association is:

14 (1) An American Board of Medical Specialties, an American
15 Osteopathic Association (AOA), or American Podiatric Medical
16 Association certifying board; or

17 (2) A board or association approved by the State Board of
18 Medical Examiners which shall require:

19 (a) successful completion of a post-graduate residency program
20 approved by the Accreditation Council for Graduate Medical
21 Education (ACGME) or AOA that provides complete training in the
22 specialty or subspecialty certified; and

23 (b) prior certification by the member board of the American
24 Board of Medical Specialties or AOA that examines residents
25 completing that ACGME or AOA approved program for that
26 residency.

27 d. Nothing in this section shall be construed to require an
28 employer of health care professionals to identify the name, State-
29 granted professional license type, and highest level of academic
30 degree of employed health care professionals in advertisements that
31 do not identify those employees.

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33 3. A health care professional who knowingly places, or causes
34 to be placed, an advertisement for health care services that is
35 intentionally misleading or deceptive shall be guilty of a disorderly
36 persons offense.

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38 4. The Director of the Division of Consumer Affairs in the
39 Department of Law and Public Safety shall adopt rules and
40 regulations pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of
42 this act.

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44 5. This act shall take effect on the 90th day next following
45 enactment.

STATEMENT

This bill stipulates that a health care professional who places, or causes to be placed, an advertisement for that health care professional's services shall include in that advertisement the health care professional's name, and the full name of the professional's State-granted license type, except that physicians licensed to practice medicine and surgery may use the abbreviation "MD" or "DO" to describe their license.

The bill stipulates that a health care professional who provides information regarding health care services on an Internet website that is directly controlled or administered by the health care professional, or that health care professional's office personnel, shall prominently display on that Internet website the health care professional's name, and the full name of the professional's State-granted license type, except that physicians licensed to practice medicine and surgery may use the abbreviation "MD" or "DO" to describe their license.

Additionally, under the bill, a health care professional who includes the phrase "board certified" in an advertisement, may only advertise such certification provided that the full name of the certifying board or association and the full name of the specialty or sub-specialty is included, and the certifying board or association is:

(1) An American Board of Medical Specialties, an American Osteopathic Association (AOA), or American Podiatric Medical Association certifying board; or

(2) A board or association approved by the State Board of Medical Examiners, which requires:

(a) successful completion of a post-graduate residency program approved by the Accreditation Council for Graduate Medical Education (ACGME) or AOA that provides complete training in the specialty or subspecialty certified; and

(b) prior certification by the member board of the American Board of Medical Specialties or AOA that examines residents completing that ACGME or AOA approved program for that residency.

The bill clarifies that nothing in the bill requires an employer of health care professionals to identify the name, State-granted professional license type, and highest level of academic degree of employed health care professionals in advertisements that do not identify those employees.

The bill also provides that a health care professional who knowingly places, or caused to be placed, an advertisement for health care services that is intentionally misleading or deceptive is guilty of a disorderly persons offense. A disorderly persons offense is punishable by up to 6 months imprisonment and up to a \$1,000 fine.