



IN THE GENERAL ASSEMBLY STATE OF _____

Health Care Professional Transparency Act

1 Be it enacted by the People of the State of _____, represented in the General
2 Assembly:

3 **Section 1. Title.** This act shall be known as and may be cited as the “Health Care Professional
4 Transparency Act.”

5 **Section 2. Purpose.** The Legislature hereby finds and declares that:

6 (a) There are a multitude of professional degrees using the term “doctor,” including
7 Medical Doctor (M.D.); Doctor of Osteopathic Medicine (D.O); Doctor of Dental Surgery
8 (D.D.S.) Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (O.D.); Doctor of
9 Chiropractic (D.C.); and other designations which may be used by health care practitioners.

10 (b) A June 2014 study by the American Medical Association found that twenty-two
11 (22) percent of patients believe that a chiropractor is a medical doctor; thirty-five (35) percent of
12 patients believe that a doctor of nursing practice is a medical doctor; thirty-six (36) percent of
13 patients believe that a psychologist is a medical doctor; forty-two (42) percent of patients believe
14 that an optometrist is a medical doctor; and seventy-four (74) percent of patients believe a
15 podiatrist is a medical doctor.

16 (c) There are widespread differences regarding the training and qualifications
17 required to earn the professional degrees described in and subject to this Act. These differences

1 often concern the training and skills necessary to correctly detect, diagnose, prevent and treat
2 serious health care conditions.

3 (d) There is a compelling state interest in patients being promptly and clearly
4 informed of the training and qualifications of the health care practitioners who provide health
5 care services.

6 (e) There is a compelling state interest in the public being protected from potentially
7 misleading and deceptive health care advertising that might cause patients to have undue
8 expectations regarding their treatment and outcome.

9 **Section 3. Definitions.**

10 (a) “Advertisement” denotes any communication or statement, whether printed,
11 electronic, or oral, that names the health care practitioner in relation to his or her practice,
12 profession, or institution in which the individual is employed, volunteers or otherwise provides
13 health care services. This includes business cards, letterhead, patient brochures, e-mail, Internet,
14 audio and video, and any other communication or statement used in the course of business.

15 (b) “Deceptive” or “misleading” includes, but is not limited to, any advertisement or
16 affirmative communication or representation that mis-states, falsely describes, holds out or
17 falsely details the health care practitioner’s profession, skills, training, expertise, education,
18 board certification or licensure.

19 (c) “Health care practitioner” means any person who engages in acts that are the
20 subject of licensure or regulation.

21 ***Drafting Note Re: Health care practitioner—To provide further guidance on different***
22 ***types of health care practitioners a state may wish to include as a subset under this***
23 ***“Definitions” provision, this Drafting Note provides the following suggestions.***

24 **Categories of health care practitioner include:**

- 1 (1) Practitioners of allopathic medicine, signified by the letters “M.D.” or the words
2 surgeon, medical doctor, or doctor of medicine by a person licensed to practice medicine and
3 surgery.
- 4 (2) Practitioners of osteopathic medicine, signified by the letters “D.O.” or the words
5 surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine.
- 6 (3) Practitioners of nursing, signified by the letters “D.N.P.”, “N.P.”, “R.N.”,
7 “L.P.N.”, “C.R.N.A.”, “C.N.A.”, or any other commonly used signifier to denote a doctorate of
8 nursing practice, nurse practitioner, registered nurse, licensed practical nurse, certified registered
9 nurse anesthetist, or certified nurse assistant, respectively, as appropriate to signify the
10 appropriate degree of licensure and degree earned from a regionally accredited institution of
11 higher education in the appropriate field of learning.
- 12 (4) Practitioners of podiatry, signified by the letters “D.P.M.” or the words podiatrist,
13 doctor of podiatry, podiatric surgeon, or doctor of podiatric medicine.
- 14 (5) Practitioners of chiropractic, signified by the letters “D.C.” or the words
15 chiropractor or doctor of chiropractic.
- 16 (6) Practitioners of dentistry, signified by the letters “D.D.S.” or “D.M.D.”, as
17 appropriate, or the words dentist, doctor of dental surgery, or doctor of dental medicine, as
18 appropriate.
- 19 (7) Practitioners of optometry, signified by the letters “O.D.” or the words
20 optometrist or doctor of optometry.
- 21 (8) Practitioners of naturopathy, signified by the letters, “N.D.” or the words
22 naturopathic doctor or doctor of naturopathy.
- 23 (9) Physician assistants, signified by the letters “P.A.” or the words physician
24 assistant.

1 (10) Medical assistants, signified by the letters “M.A.” or the words medical assistant.

2 (11) Practitioners of Audiology, signified by the letters “Au.D.,” “Sc.D.,” or “Ph.D.”,
3 or the words audiologist or doctor of Audiology.

4 (12) Psychologists, pharmacists, physical therapists, speech-language pathologists,
5 counselors, or any other health care practitioner not covered under this section, including but not
6 limited to those signified by the letters “Ph.D.,” “Ed.D.,” “Pharm.D.,” “P.T.,” “M.P.T.,”
7 “Psy.D.,” or “Sc.D.,” as appropriate to signify the appropriate degree of licensure and degree
8 earned from a regionally accredited institution of higher education in the appropriate field of
9 learning.

10 (d) “Licensee” means a health care practitioner who holds an active license with the
11 licensing board governing his or her practice in this State.

12 **Section 4. Requirements.**

13 (a) An advertisement for health care services that names a health care practitioner
14 must identify the type of license held pursuant to the definitions under this Act. The
15 advertisement shall be free from any and all deceptive or misleading information.

16 ***Drafting Note Re: Board Certification—To provide further guidance on an additional***
17 ***type of requirement related to M.D. or D.O. board certification, this Drafting Note provides the***
18 ***following sample.***

19 A medical doctor or doctor of osteopathic medicine may not hold oneself out to the
20 public in any manner as being certified by a public or private board including but not limited to a
21 multidisciplinary board or “board certified,” unless all of the following criteria are satisfied:

22 (a) The advertisement states the full name of the certifying board.

23 (b) The board either:

1 1. Is a member board of the American Board of Medical Specialties (ABMS)
2 or the American Osteopathic Association (AOA).

3 2. Requires successful completion of a postgraduate training program
4 approved by the Accreditation Commission for Graduate Medical Education (ACGME)
5 or the AOA that provides complete training in the specialty or subspecialty certified,
6 followed by prerequisite certification by the ABMS or AOA board for that training field
7 and further successful completion of examination in the specialty or subspecialty
8 certified.

9 (b) A health care practitioner providing health care services in this state must
10 conspicuously post and affirmatively communicate the practitioner’s specific licensure as
11 defined under this Act. This shall consist of the following:

12 1. The health care practitioner shall wear a photo identification name tag
13 during all patient encounters that shall include (i) a recent photograph of the employee;
14 (ii) the employee’s name; (iii) the type of license (e.g. “medical doctor”, “psychologist”,
15 “nurse practitioner”, “podiatrist”); and (iv) the expiration date of the license. The name
16 tag shall be of sufficient size and be worn in a conspicuous manner so as to be visible and
17 apparent; and

18 2. The health care practitioner shall display in his or her office a writing that
19 clearly identifies the type of license held by the health care practitioner. The writing must
20 be of sufficient size so as to be visible and apparent to all current and prospective
21 patients.

22 (c) A health care practitioner who practices in more than one office shall be required
23 to comply with these requirements in each practice setting.

1 (d) A medical doctor or doctor of osteopathic medicine who supervises or participates
2 in collaborative practice agreements with non-M.D. or non-D.O. health care practitioners shall be
3 required to conspicuously post in each office a schedule of the regular hours when he or she will
4 be present in that office.

5 (e) Health care practitioners working in non-patient care settings, and who do not
6 have any direct patient care interactions, are not subject to the provisions of this Act.

7 ***Drafting Note Re: Exceptions—To provide further guidance on different types of***
8 ***exceptions provisions, this drafting note provides a representative sample from states with***
9 ***truth in advertising laws.***

10 California, Nevada, and Tennessee waive any name tag requirements for health care
11 practitioners who provide services in certain medical facilities such as medical research
12 laboratories, community mental health facilities, and other medical facilities where the person
13 does not provide services directly to the public.

14 Texas, Illinois and Utah require that health care providers who are providing direct
15 patient care at the hospital must wear a photo identification badge during all patient encounters,
16 unless precluded by sterilization or isolation protocols.

17 Maine, Mississippi and Illinois provide that health care practitioners working in non-
18 patient care settings, and who do not have any direct patient care interactions, are not subject to
19 provisions regarding the use of a name badge/identification during the course of service.

20 Pennsylvania and Utah provide an exemption when wearing a badge would not be
21 clinical feasible.

22 Pennsylvania, Utah, and West Virginia allow the last name of the employee to be
23 concealed or omitted when the employee is concerned about his or her safety, when delivering

1 direct care to a consumer who exhibits signs of irrationality or violence, or when wearing
2 identification would jeopardize the health care provider's safety.

3 Utah exempts solo health care practitioners or offices where the license type and names
4 of all health care providers in the office are displayed on the office door.

5 **Section 5. Violations and Enforcement.**

6 (a) Failure to comply with any provision under this Section shall constitute a
7 violation under this Act.

8 (b) Knowingly aiding, assisting, procuring, employing or advising any unlicensed
9 person or entity to practice or engage in acts contrary to the health care practitioner's degree of
10 licensure shall constitute a violation under this Act.

11 (c) Delegating or contracting for the performance of health care services by a health
12 care practitioner when the licensee delegating or contracting for performance knows, or has
13 reason to know, the person does not have the required authority pursuant to the person's
14 licensure, shall constitute a violation under this Act.

15 (d) Each day this act is violated shall constitute a separate offense and shall be
16 punishable as such.

17 (e) Any health care practitioner who violates any provision under this Act is guilty of
18 unprofessional conduct and subject to disciplinary action under the appropriate licensure
19 provisions governing the respective health care practitioner.

20 (f) Any and all fees and other amounts billed to and paid by the patient shall be
21 effectively rescinded and refunded. This includes third parties contracted to collect fees on behalf
22 of the health care practitioner, the health care practitioner's employer, or other entity contracting
23 with the health care practitioner.

1 (g) The imposition of professional sanctions, administrative fees or other disciplinary
2 actions shall be publicly reported in a journal of official record.

3 (h) Notwithstanding the imposition of any penalty, a professional licensing board or
4 other administrative agency with jurisdiction may seek an injunction or other legal means as
5 appropriate against a person or entity violating this Act.

6 ***Drafting Note Re: Enforcement—To provide further guidance on different types of***
7 ***enforcement provisions, this Drafting Note provides a representative sample from eight states***
8 ***with TIA-type laws.***

9 **California.** Current law requires a health care practitioner to display the type of license,
10 highest level of academic degree and the name of a certifying board or association (if applicable)
11 in writing at the patient’s initial office visit or in a prominent display in an office area visible to
12 patients. Violators are guilty of a misdemeanor, may result in license revocation or suspension,
13 “or other disciplinary action including an administrative fine not to exceed \$10,000.” (Cal. Bus.
14 & Prof. Code §651 (2010)).

15 **Florida.** Current law requires health care practitioners to inform patients about their
16 credentials. Violations for misleading or deceptive statements, or offering to practice beyond
17 one’s scope of practice, include professional licensure sanctions, suspension, restrictions and
18 probation. Violators also may be subject to administrative fines and be forced to undergo
19 “remedial education.” (Fla. Stat. § 456.072 (2006)).

20 **Georgia.** Current law provides that “Any person willfully violating, with intent to
21 defraud, subsection (a) of this Code section shall be guilty of a misdemeanor.” (Ga. Code Ann.
22 §10-1-422 (2006)).

23 **Illinois.** Under current law, advertisements for health care services must identify the
24 license of the health care professional and be free of deceptive or misleading information. The

1 law also requires a health care professional to clearly communicate his or her licensure on a
2 visible name tag or office display. Violators are guilty of unprofessional conduct and subject to
3 disciplinary action at the discretion of the state medical board. (225 ILCS § 145 (2010)).

4 **New Hampshire.** Current law is limited to health care practitioners being required to
5 wear name tags or some other form of identification that “readily discloses the name, licensure
6 status, if any, and staff position.” Violations are limited to fines “of no more than \$50 on the
7 facility per infraction.” (N.H. Rev. Stat. Ann. § 151:3-b (1999)).

8 **Oklahoma.** Current law provides that any advertisement must include a notice stating
9 “If you find anything in this communication to be inaccurate or misleading, you may report the
10 same by writing to [the M.D. or D.O. medical board].” The law also deems violations of the
11 appropriate health care practitioner licensing act. An amendment enacted in 2010 provides that
12 nine classes of health professionals may use the title “doctor” or “Dr.” in conjunction with
13 appropriate licensing designation. The amendment requires a provider to identify in any
14 advertisement for health care services the type of license, using the applicable words for the
15 profession. Violators are subject to fines; repeated or gross violations will be referred to the
16 Attorney General. (O.S. § 59-725.1-3 (2010)).

17 **Tennessee.** Current law provides a requirement that all licensed health care practitioners
18 in the state keep their “certificate of registration” in a conspicuous place, and the certificate
19 contain the “recognized professional abbreviation or designation” after the practitioner’s name.
20 An amendment enacted in 2011 expands the categories of health care practitioners who are
21 required to communicate this information, and requires disclosure of licensure on Internet
22 advertisements. Violations, including civil penalties, suspension or license revocation, are at the
23 discretion of the respective health care licensing boards. (Tenn. Code Ann. § 63-1-109 (2011)
24 [Amended Effective January 1, 2012]).

1 **Utah.** Current law requires all licensed health care providers to include their name and
2 license type in any advertisement for health care services. Violations are considered
3 unprofessional conduct. (Utah Code Section § 58-1-501.6 (2011)). See also, Ariz. Rev. Stat. §
4 32-3213.

5 **Section 6. Effective.** This Act shall become effective immediately upon being enacted into law.

6 **Section 7. Severability.** If any provision of this Act is held by a court to be invalid, such
7 invalidity shall not affect the remaining provisions of this Act, and to this end the provisions of
8 this Act are hereby declared severable.