AMA Advocacy Resource Center

“Truth in Advertising” campaign

Resource materials to support state legislative and regulatory campaigns
Identifying the problem, providing a solution, taking action

The problem

Patients are confused about the differences between various types of health care providers. Often, patients mistakenly believe they are meeting with physicians (medical doctors or doctors of osteopathic medicine) when they are not. The American Medical Association (AMA) believes that patients deserve to have increased clarity and transparency in health care. There is no place for confusing or misleading health care advertising that has the potential to put patient safety at risk.

Patients are confused about health provider qualifications

With the escalating cost of health care and an ever-growing variety of health care choices, America’s patients deserve to know who provides their health care, and exactly what their health care providers are qualified and licensed to diagnose, prescribe, and treat. Currently, patients mistake physicians with non-physician providers, and they do not know that certain medical specialists are physicians.

<table>
<thead>
<tr>
<th>Is this person a medical doctor?¹</th>
<th>Yes (%)</th>
<th>No (%)</th>
<th>Not sure (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychiatrist</td>
<td>74</td>
<td>75</td>
<td>20</td>
</tr>
<tr>
<td>Podiatrist</td>
<td>67</td>
<td>68</td>
<td>22</td>
</tr>
<tr>
<td>Psychologist</td>
<td>49</td>
<td>41</td>
<td>44</td>
</tr>
<tr>
<td>Chiropractor</td>
<td>38</td>
<td>31</td>
<td>53</td>
</tr>
<tr>
<td>Doctor of nursing practice</td>
<td>38</td>
<td>35</td>
<td>37</td>
</tr>
<tr>
<td>Otolaryngologist / ENT²</td>
<td>32</td>
<td>43</td>
<td>13</td>
</tr>
</tbody>
</table>

Patients are not confident about the truth of health advertisements

Confusing and misleading ads undermine the reliability of our health care system. Unfortunately, only half of patients surveyed believe that it is easy to identify who is a physician—and who is not—by reading what services they offer, their title, and other licensing credentials in advertising and marketing materials.

<table>
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<tr>
<th>Do you agree or disagree with the following?</th>
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<th>Disagree (%)</th>
<th>Don’t know (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>It is easy to identify who is a licensed medical doctor and who is not by reading what services they offer, their title and other licensing credentials in advertising or other marketing materials</td>
<td>46</td>
<td>51</td>
<td>51</td>
</tr>
</tbody>
</table>

¹ Global Strategy Group conducted a telephone survey of 850 adults nationwide on behalf of the AMA Scope of Practice Partnership, Aug. 13–18, 2008. The overall margin of error is +/- 3.4 percent at the 95 percent confidence level. Baselice & Associates conducted a follow-up telephone survey of 850 adults nationwide on behalf of the Scope of Practice Partnership, Nov. 4–8, 2010. The overall margin of error is +/- 3.4 percent at the 95 percent confidence level.

² The abbreviation for ear, nose and throat—ENT—was not referenced in the 2008 survey.
The solution
Confusion about who is and who is not qualified to provide specific patient care undermines the reliability of the health care system and can put patients at risk. People unqualified to perform health services can lead to medical errors and patient harm. The AMA urges lawmakers to take action to rectify this problem.

To help ensure patients can answer the simple question, “Who is a doctor?”, the AMA believes that all health care professionals—physicians and non-physicians—should be required to accurately and clearly disclose their training and qualifications to patients.

Full disclosure: Americans want to know if a provider is not a physician
Asking medical professionals to display their credentials and capabilities allows patients to make informed choices about their health care. In fact, 87 percent of patients believe that health care providers should be required to display their level of training and legal licensure. This includes full disclosure in all advertising and marketing materials. In addition, while some non-physicians call themselves “doctor” by virtue of a doctoral degree, more than nine out of 10 patients believe only a medical doctor or doctor of osteopathic medicine should be able to use the title “physician.”

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Only licensed medical doctors or doctors of osteopathic medicine should be able to use the title “physician”</td>
<td>91 93 92</td>
<td>7 6 6</td>
<td>2 1 2</td>
</tr>
</tbody>
</table>

Uninformed choice leads to unintended consequences and potentially dangerous consequences. Patients look to physicians to treat serious conditions and care for their families. Allowing non-physicians to advertise that they treat conditions that they may not have the appropriate education and training to provide care for puts patients' safety at increased and unnecessary risk.

Taking action
Truth in advertising increases clarity and enhances reliability
The need for truth-in-advertising legislation transcends party lines, gender, race and geography. Patients overwhelmingly support stricter standards on medical advertising. Legislation is needed to require health care providers to clearly and honestly state their level of training, licensing and what procedures they may legally perform in all of their advertising and marketing materials.

Patients must be able to rely on what their health care providers tell them. Truth-in-advertising legislation helps patients do just that.
Survey results

Education and training matters when it comes to who provides your health care, but do most patients know the qualifications of their health care provider? A 2008 survey found that while patients strongly support a physician-led health care team, many are confused about the level of education and training of their health care provider. Follow-up surveys conducted in 2010 and 2012 confirmed that patients want a physician to lead the healthcare team. The surveys also underscored that patient confusion remains high. Key findings included:

- Ninety percent of respondents said that a physician’s additional years of medical education and training (compared to a nurse practitioner) are vital to optimal patient care, especially in the event of a complication or medical emergency.
- Eighty-six percent of respondents said that patients with one or more chronic diseases benefit when a physician leads the primary health care team.
- Eighty-three percent of respondents said that they prefer a physician to have primary responsibility for the diagnosis and management of their health care.

Truth-in-advertising legislation can help provide the clarity and transparency necessary for patients to have the information they need to make informed decisions about their health care.

Patients are not sure who is—and who is not—a physician

<table>
<thead>
<tr>
<th>Is this person a medical doctor?</th>
<th>Yes (%)</th>
<th>No (%)</th>
<th>Not sure (%)</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>2008</td>
<td>2010</td>
<td>2008</td>
</tr>
<tr>
<td>Orthopedic surgeon/orthopaedist</td>
<td>94</td>
<td>84</td>
<td>3</td>
</tr>
<tr>
<td>Obstetrician/gynecologist</td>
<td>92</td>
<td>93</td>
<td>5</td>
</tr>
<tr>
<td>Primary care physician</td>
<td>n/a</td>
<td>91</td>
<td>n/a</td>
</tr>
<tr>
<td>General or family practitioner</td>
<td>88</td>
<td>88</td>
<td>8</td>
</tr>
<tr>
<td>Dermatologist</td>
<td>n/a</td>
<td>84</td>
<td>n/a</td>
</tr>
<tr>
<td>Dentist</td>
<td>77</td>
<td>69</td>
<td>20</td>
</tr>
<tr>
<td>Anesthesiologist</td>
<td>76</td>
<td>78</td>
<td>16</td>
</tr>
<tr>
<td>Psychiatrist</td>
<td>74</td>
<td>75</td>
<td>20</td>
</tr>
<tr>
<td>Ophthalmologist</td>
<td>69</td>
<td>71</td>
<td>14</td>
</tr>
<tr>
<td>Pediatrician</td>
<td>67</td>
<td>68</td>
<td>22</td>
</tr>
<tr>
<td>Optometrist</td>
<td>54</td>
<td>54</td>
<td>36</td>
</tr>
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1. Global Strategy Group conducted a telephone survey on behalf of the AMA Scope of Practice Partnership Aug. 13–18, 2008. Global Strategy Group surveyed 850 adults nationwide. The overall margin of error is +/- 3.4 percent at the 95 percent confidence level.
2. Baselice & Associates conducted a telephone survey on behalf of the AMA Scope of Practice Partnership between Nov. 4–8, 2010. Baselice & Associates surveyed 850 adults nationwide. The overall margin of error is +/- 3.4 percent at the 95 percent confidence level.
3. Baselice & Associates conducted a telephone survey on behalf of the AMA Scope of Practice Partnership between March 8–12, 2012. Baselice & Associates surveyed 801 adults nationwide. The overall margin of error is +/- 3.5 percent at the 95 percent level.
4. Medical doctor or doctor of osteopathic medicine.
5. The physician professions “primary care physician” and “dermatologist” were not referenced in the 2008 survey.
### Is this person a medical doctor?

<table>
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<tr>
<td>Psychologist</td>
<td>49</td>
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<td>38</td>
<td>31</td>
<td>53</td>
</tr>
<tr>
<td>Doctor of nursing practice</td>
<td>38</td>
<td>35</td>
<td>37</td>
</tr>
<tr>
<td>Audiologist</td>
<td>33</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
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<td>32</td>
<td>43</td>
<td>13</td>
</tr>
<tr>
<td>Nurse practitioner</td>
<td>29</td>
<td>26</td>
<td>63</td>
</tr>
<tr>
<td>Physical therapist</td>
<td>26</td>
<td>19</td>
<td>68</td>
</tr>
<tr>
<td>Midwife</td>
<td>11</td>
<td>7</td>
<td>82</td>
</tr>
</tbody>
</table>

### Additional findings from the Truth-in-Advertising surveys

**Patients strongly prefer physicians to lead the health care team**

<table>
<thead>
<tr>
<th>Should only a MD or DO be allowed to perform the following procedures or should other health care professionals be allowed to perform this specific activity?</th>
<th>Only a MD or DO (%)</th>
<th>Other health care professional (%)</th>
<th>Both equally/either one (%)</th>
<th>Don't know (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amputations of the foot?</td>
<td>93</td>
<td>93</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Diagnose and treat heart conditions?</td>
<td>n/a</td>
<td>n/a</td>
<td>3</td>
<td>n/a</td>
</tr>
<tr>
<td>Surgical procedures on the eye that require the use of a scalpel?</td>
<td>92</td>
<td>94</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Treat emergency or trauma medical conditions, which may be life threatening?</td>
<td>n/a</td>
<td>n/a</td>
<td>3</td>
<td>n/a</td>
</tr>
<tr>
<td>Facial surgery such as nose shaping and face lifts?</td>
<td>90</td>
<td>89</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Write prescriptions for complex drugs, including those that carry a risk of abuse or dependence</td>
<td>82</td>
<td>75</td>
<td>16</td>
<td>23</td>
</tr>
<tr>
<td>Diagnose and treat chronic diseases like diabetes?</td>
<td>n/a</td>
<td>n/a</td>
<td>74</td>
<td>n/a</td>
</tr>
<tr>
<td>Write prescriptions for medication to treat mental health conditions such as schizophrenia and bi-polar disorder</td>
<td>80</td>
<td>75</td>
<td>76</td>
<td>17</td>
</tr>
<tr>
<td>Administer and monitor anesthesia levels and patient condition before and during surgery?</td>
<td>71</td>
<td>70</td>
<td>71</td>
<td>27</td>
</tr>
<tr>
<td>Write prescriptions for common conditions like sinus infections?</td>
<td>n/a</td>
<td>n/a</td>
<td>34</td>
<td>n/a</td>
</tr>
</tbody>
</table>

6. The abbreviation for ear, nose and throat—"ENT"—was not referenced in the 2008 survey.
Patients want their health care professional to clearly designate their education and training

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<td>46 51 n/a</td>
<td>51 44 n/a</td>
<td>3 3 n/a</td>
</tr>
</tbody>
</table>
Sample press release

FOR IMMEDIATE RELEASE

STATE PATIENTS DESERVE TO KNOW WHO IS PROVIDING THEIR CARE.
MEDICAL SOCIETY proposes law to help end patient confusion about who is a “doctor.”

CITY, STATE—In an effort to help provide clarity and transparency for STATE patients, MEDICAL SOCIETY recently introduced legislation that helps ensure patients know the education, training and licensure of their health care provider.

Under the “Health Care Professional Transparency Act,” all health care professionals will have to wear a name tag during all patient encounters clearly identifying the type of license they hold. Health care professionals will also have to display their education, training and licensure in their office.

“We believe patients deserve to know whether the person they see is a physician, registered nurse, chiropractor or other medical professional,” said MEDICAL SOCIETY SPOKESPERSON. “It’s not enough information for patients to just hear, ‘Hi, I’m your doctor.’”

This bill comes on the heels of a new survey that shows there is significant public confusion about the qualifications of different health care providers. These advertisements or websites must be free of deceptive or misleading information, and must identify the professional license.

[INSERT RELEVANT SURVEY RESULTS]

This bill also promotes “Truth in Advertising” among health care professionals by ensuring that any advertisements or professional websites they have do not promote services beyond what they are legally permitted to provide. These advertisements or websites must be free of deceptive or misleading information, and must identify the professional license.

“We want all health care professionals—physicians and non-physicians alike—to clearly display their education and licensure so that patients know who is providing their care,” said SPOKESPERSON. “Providing patients upfront with the education, training and qualifications of health care professionals can help them make more informed decisions about their health care.”

# # #
Frequently asked questions

Why is the AMA conducting a “Truth in Advertising” campaign?
The American Medical Association (AMA)—along with our state and specialty society partners—created the “Truth in Advertising” campaign to help ensure patients know the education, training and qualifications of their health care professionals. Many different health care professions now offer a “doctor” degree, but just using the title “Dr.” does not help a patient know all they need to know. In fact, a recent survey found that patients overwhelmingly want all health care professionals—physicians and non-physicians alike—to clearly state their level of education, training and licensure.

Aren’t there already laws that prevent deceptive advertising?
Many if not most states likely have consumer protection statutes to help protect consumers from false advertising, but what we’re doing is a bit different. Because there has been an explosion of health care professionals with “doctor” degrees, we believe patients deserve to know what kind of doctor they are seeing. There is a great difference between a doctor of psychology and a medical doctor who practices psychiatry, for example.

What are the key elements of this campaign?
We would like to see all health care professionals—physicians and non-physicians alike—clearly display their education and licensure so that patients have relevant information about the person who is providing their care. The letters after someone’s name might mean something to a health care professional, but without something more, patients will not know that a DO is a Doctor of Osteopathic Medicine, or that an AuD means a person has a doctorate of audiology.

Furthermore, we want to help ensure that when health care practitioners advertise their services, they are clear about what license they hold, and are not promising more than what their education, training and licensure permits.

Is this campaign an attempt to restrict the practice of non-physicians?
No. The AMA believes that efficient, high-quality health care requires all members of the health care team to work closely together. Every member of the health care delivery team plays an important role, but to ensure optimal care and patient safety, physicians and non-physicians must provide only the services that their education and training have prepared them to provide—and their licensure legally allows them to provide.

What would you say to critics who call this campaign a “turf battle”?
The “Truth in Advertising” campaign is about transparency for patients, patient education and patient safety. This campaign does not increase or limit anyone’s scope of practice. Instead, this campaign increases the transparency of health care professionals’ qualifications for patients, so that patients can clearly see and make informed decisions about who provides their care.

Is this legislation really necessary?
Yes. The Internet and other forms of communication provide almost limitless outlets for health care advertisements. We believe that for the health care system to operate most effectively, patients must be able to rely on their health care practitioner. We believe that legislators will be providing a proactive public service by requiring health care practitioners to be truthful in marketing themselves and their services.
Is false advertising of medical services really a problem?
The problem is real. Confusion about who is and who is not qualified to provide specific patient care undermines the reliability of the health care system and can put patients at risk. People unqualified to perform health services can lead to medical errors and cause patient harm. Bottom line: Patients deserve to know who is providing their care.

Even a brief amount of online research will uncover thousands of examples of potentially misleading or deceptive advertising from a variety of non-physician practitioners. And remember that this is not simply about misleading ads—it’s about increasing transparency. Anyone can call themselves “doctor.” We want patients to know whether that doctor is a physician, nurse, podiatrist, chiropractor, and so on. Titles and definitions matter because they influence patients.

How will this legislation help solve the confusion among patients?
This will alleviate confusion by making sure patients understand precisely what type of health care professional is treating them—a physician, nurse, assistant or technician.

Why is the AMA pushing this legislation now? Aren’t there a lot bigger problems in our health care system?
Improving the nation’s health care system requires looking at many issues. This legislation will help empower patients to take a more active role in their health care and become more informed about the qualifications and training of health care professionals.

Who did your survey and what methodology was used?
Global Strategy Group, a nationally recognized polling firm, conducted the survey. The nationwide survey was conducted between Aug. 12 and Aug. 18, 2008, with 850 adults. The margin of error is +/- 3.4 percent at the 95 percent confidence level.

Baselice & Associates conducted the follow-up survey. The follow-up survey was conducted between Nov. 4 and Nov. 8, 2010, with 850 adults nationwide. The margin of error is +/- 3.4 percent at the 95 percent confidence level.

Baselice & Associates conducted another follow-up survey on behalf of the AMA Scope of Practice Partnership between March 8–12, 2012. Baselice & Associates surveyed 801 adults nationwide. The overall margin of error is +/- 3.5 percent at the 95 percent level.
“Health Care Professional Transparency Act“: A model bill created by the AMA

Purpose
The purpose of this model bill is to help provide clarity and transparency for patients when they seek out and go to a health care practitioner. Due to the explosion of professional and quasi-professional titles employing the term “doctor,” patients are confused about the training and education of health care practitioners. This model bill helps ensure that patients are promptly and clearly informed of the training and qualifications of their health care practitioner.

Definition
This model bill defines “deceptive” or “misleading” advertisements and any advertisement or affirmative communication or representation that mis-states, falsely describes, holds out or falsely details the health care practitioner’s profession, skills, training, expertise, education, board certification or licensure.

The model bill also includes definitions for several different types of health care practitioner, including medical doctors, doctors of osteopathic medicine, podiatrists, chiropractors, dentists, optometrists, naturopaths, physician and medical assistants, psychologists, therapists, audiologists and counselors. Medical societies using this model bill will need to determine which definitions to include in their legislation.

Requirements
There are three main requirements under this model bill. First, the health care practitioner must wear a name tag during all patient encounters that clearly identifies the type of license held by the health care practitioner. Second, the health care practitioner must display in his or her office a writing that clearly identifies the type of license held by the health care practitioner. Third, the health care practitioner must identify his or her license in all advertisements for health care services. These ads must be free from deceptive or misleading information.

Violations and enforcement
The model bill provides that it is a violation to knowingly aid, assist, procure, employ or advise any unlicensed person to practice or engage in acts contrary to the health care practitioner’s degree of licensure. It also is a violation to delegate or contract for the performance of health care services to a person that does not have the required authority to provide the health care services.

Violators under this model bill are guilty of unprofessional conduct and subject to disciplinary action under the health care practitioner’s licensing statute. Of note, this model bill does not provide for criminal penalties, although a state may wish to pursue that course.
Model legislation

IN THE GENERAL ASSEMBLY
STATE OF __________________

Health Care Professional Transparency Act

Be it enacted by the People of the State of ______________, represented in the
General Assembly:

Section 1. Title

This act shall be known and may be cited as the “Health Care Professional
Transparency Act.”

Section 2. Purpose

The Legislature hereby finds and declares that:

(a) There are a multitude of professional degrees using the term “doctor,” including Medical Doctor
(MD); Doctor of Osteopathic Medicine (DO); Doctor of Dental Surgery (DDS) Doctor of Podiatric
Medicine (DPM); Doctor of Optometry (OD); Doctor of Chiropractic (DC); and other designations
which may be used by health care practitioners.

(b) A November 2010 study by the American Medical Association found that thirty-one (31) percent
of patients believe that a chiropractor is a medical doctor; thirty-five (35) percent of patients
believe that a doctor of nursing practice is a medical doctor; forty-one (41) percent of patients
believe that a psychologist is a medical doctor; fifty-four (54) percent of patients believe that an
optometrist is a medical doctor; and sixty-eight (68) percent of patients believe a podiatrist is a
medical doctor.

(c) There are widespread differences regarding the training and qualifications required to earn the
professional degrees described in and subject to this act. These differences often concern the
training and skills necessary to correctly detect, diagnose, prevent and treat serious health care
conditions.

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

(e) There is a compelling state interest in the public being protected from potentially misleading
and deceptive health care advertising that might cause patients to have undue expectations
regarding their treatment and outcome.
Section 3. Definitions

For the purposes of this act:

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

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

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

Drafting note re: Health care practitioner—to provide further guidance on different types of health care practitioners that a state may wish to include as a subset under this “Definitions” provision, this drafting note provides the following suggestions.

Categories of health care practitioner include:

(1) Practitioners of allopathic medicine, signified by the letters “MD” or the words surgeon, medical doctor, or doctor of medicine by a person licensed to practice medicine and surgery.

(2) Practitioners of osteopathic medicine, signified by the letters “DO” or the words surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine.

(3) Practitioners of nursing, signified by the letters “DNP,” “NP,” “RN,” “LPN,” “CRNA,” “CNA,” or any other commonly used signifier to denote a doctorate of nursing practice, nurse practitioner, registered nurse, licensed practical nurse, certified registered nurse anesthetist, or certified nurse assistant, respectively, as appropriate to signify the appropriate degree of licensure and degree earned from a regionally accredited institution of higher education in the appropriate field of learning.

(4) Practitioners of podiatry, signified by the letters “DPM” or the words podiatrist, doctor of podiatry or doctor of podiatric medicine.

(5) Practitioners of chiropractic, signified by the letters “DC” or the words chiropractor or doctor of chiropractic.

(6) Practitioners of dentistry, signified by the letters “DDS” or “DMD”, as appropriate, or the words dentist, doctor of dental surgery, or doctor of dental medicine, as appropriate.
(7) Practitioners of optometry, signified by the letters “OD” or the words optometrist or doctor of optometry.

(8) Practitioners of naturopathy, signified by the letters, “ND” or the words naturopathic doctor or doctor of naturopathy.

(9) Physician assistants, signified by the letters “PA” or the words physician assistant.

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

(11) Practitioners of audiology, signified by the letters “AuD,” “ScD,” or “PhD,” or the words audiologist or doctor of audiology.

(12) Psychologists, pharmacists, physical therapists, speech-language pathologists, counselors, or any other health care practitioner not covered under this section, including but not limited to those signified by the letters “PhD,” “EdD,” “PharmD,” “PT,” “MPT,” “PsyD,” or “ScD,” as appropriate to signify the appropriate degree of licensure and degree earned from a regionally accredited institution of higher education in the appropriate field of learning.

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

Section 4. Requirements

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

**Drafting note re: Board certification**—to provide further guidance on an additional type of requirement related to MD or DO board certification, this drafting note provides the following sample.

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

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

(b) The board either:

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

2. Requires successful completion of a postgraduate training program approved by the Accreditation Commission for Graduate Medical Education (ACGME) or the AOA that provides complete training in the specialty or subspecialty certified, followed by prerequisite certification by the ABMS or AOA board for that training field and further successful completion of examination in the specialty or subspecialty certified.
(b) A health care practitioner providing health care services in this state must conspicuously post and affirmatively communicate the practitioner’s specific licensure as defined under this act. This shall consist of the following:

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

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

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

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

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

Section 5. Violations and enforcement

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

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

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

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

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

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

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

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

Drafting note re: Enforcement—to provide further guidance on different types of enforcement provisions,
this drafting note provides a representative sample from eight states with truth-in-advertising-type laws.

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

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

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

Illinois. Under current law, advertisements for health care services must identify the license of the health
care professional and be free of deceptive or misleading information. The law also requires a health care
professional to clearly communicate his or her licensure on a visible name tag or office display. Violators
are guilty of unprofessional conduct and subject to disciplinary action at the discretion of the state
medical board. (225 ILCS § 145 (2010)).

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

Oklahoma. Current law provides that any advertisement must include a notice stating “If you find
anything in this communication to be inaccurate or misleading, you may report the same by writing to
[the MD or DO medical board].” The law also deems violations of the appropriate health care practitioner
licensing act. An amendment enacted in 2010 provides that nine classes of health professionals may
use the title “doctor” or “Dr.” in conjunction with appropriate licensing designation. The amendment
requires a provider to identify in any advertisement for health care services the type of license, using the
applicable words for the profession. Violators are subject to fines; repeated or gross violations will be
referred to the Attorney General. (O.S. § 59-725.1-3 (2010)).
**Tennessee.** Current law provides a requirement that all licensed health care practitioners in the state keep their “certificate of registration” in a conspicuous place, and the certificate contain the “recognized professional abbreviation or designation” after the practitioner’s name. An amendment enacted in 2011 expands the categories of health care practitioners who are required to communicate this information, and requires disclosure of licensure on Internet advertisements. Violations, including civil penalties, suspension or license revocation, are at the discretion of the respective health care licensing boards. (Tenn. Code Ann. § 63-1-109 (2011) [Amended effective January 1, 2012]).

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

**Section 6. Effective date**

This act shall become effective immediately upon being enacted into law.

**Section 7. Severability**

If any provision of this act is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this act, and to this end the provisions of this act are hereby declared severable.
State bill summaries

Mississippi SB 2670 (2012)

Background
On April 18, 2012, the governor of Mississippi approved Senate Bill 2670 (SB 2670), “The Patient's Right to Informed Health Care Choices Act,” to provide definitions, regulate and provide standards for health care practitioners’ advertisement practices and communications.

Purpose
The act requires that health care practitioners display their licensure such that patients and prospective patients are made aware of their specific qualifications.

The act reflects the state’s recognition that choosing a health care provider is one of the most important decisions a patient makes, which should be supported by full disclosure from their health care provider. The differences regarding training and qualifications of different health care providers often speak to the skills necessary to correctly detect, diagnose, prevent and treat serious health care conditions. Thus, the act states, there is a compelling state interest in patients being promptly and clearly informed of the actual training and qualifications of their health care practitioners who provide health care services.

Definitions
“Advertisement” means any communication or statement, whether printed, electronic or oral, that names the health care practitioner in relation to his or her practice, profession, or institution in which the individual is employed, volunteers or otherwise provides health care services.

“Deceptive” or “misleading” includes, but is not limited to, any advertisement or affirmative communication or representation that misstates, falsely describes, holds out or falsely details the health care practitioner’s profession, skills, training, expertise, education, board certification or licensure.

“Health care practitioners” are those who engage in acts that are the subject of licensure or regulation, including practitioners of allopathic medicine, osteopathic medicine, nursing, podiatry, chiropractic, dentistry, optometry and audiology, as well as physician assistants, psychologists, therapists, speech-language pathologists, counselors, and any other denotations of licensure.

Advertising requirements
The act requires that advertisements for health care services that name a health care practitioner must identify the type of license held by the practitioner, and must be free from deceptive or misleading information.

A health care practitioner providing health care services must post in their office, and affirmatively communicate, their licensure. The practitioner must display visibly to all current and prospective patients the type of license held by the practitioner.

Practitioners who practice in multiple settings must comply with these requirements at each location.
Practitioners working in nonpatient care settings are not subject to the provisions of the act.

**Violations**
Failure to comply with any provision under this section constitutes a violation of the act. Professional licensing boards or other administrative agencies with jurisdiction may seek an injunction or other legal means as penalty for violation of this act.

**Connecticut HB 5045 (2011)**

**Background**
On October 1, 2011 the governor of Connecticut signed Substitute House Bill 5045 (HB 5045), which creates requirements regarding the use of identification badges during work hours by health care providers.

**Definitions**
Under HB 5045, a “health care provider” is defined as any person employed or acting on behalf of a health care institution or facility. Institutions and facilities include “a hospital, rest home, nursing home, home health care agency, homemaker-home health aide agency emergency medical services organization, assisted living services agency, outpatient surgical facility and an infirmary” operated by educational institutions for the care of students, faculty and employees.

**Health care provider identification badge requirements**
The bill requires that any “health care provider who provides direct patient care must wear identification badges in plain view” during the provider’s work hours. The identification badge must include the:

- Name of the health care facility/institution
- Name of the health care provider
- Type of license
- Certificate/employment title held by the provider within the facility/institution

The size, content, and format of the identification badges may be determined by the health care institution/facility in consultation with the Department of Public Health.

**Tennessee SB 505 (2011)**

On April 14, 2011, the governor of Tennessee signed Senate Bill 505 (SB 505), which amends the Tennessee Codes Annotated § 63-1-109 governing the disclosure requirements of health care practitioners. This amended section took effect on Jan. 1, 2012.

**Purpose**
The purpose of the law is to require health care practitioners to clearly disclose proof of the type of their professional licensure to patients. The law expands the categories of health care practitioners who are...
required to communicate this information to patients. The law also requires disclosure of licensure on all Internet advertisements by the health care professional.

**Disclosure requirements**

All licensed health care practitioners are required to display a copy of their license or registration in their office. The disclosure must clearly indicate the practitioner’s name and degree abbreviation above the title of their profession (or specialty, where applicable). Those who are required to display this information include: chiropractors, dentists, physicians, surgeons, optometrists, osteopathic physicians, podiatrists, nurses, physician assistants, psychologists, acupuncturists and midwives.

Each health care practitioner must, at all times during patient encounters, wear a visible photo identification name tag that includes a recent photograph of the licensee, the licensee’s full name, and the type of license. A health care practitioner must communicate in writing his or her full name and type of license at each patient’s initial office visit.

Any practitioner who advertises health care services on an Internet website must prominently display the practitioner’s full name and type of license.

A health care practitioner who works in a non-patient care setting and who has no direct interaction with patients is exempt from these requirements.

**Violations**

A health care practitioner who violates this section is guilty of unprofessional conduct and will be subject to disciplinary action based on the specific law(s) governing his or her profession or license. This includes injunctions or other appropriate legal means.

**Utah SB 134 (2011)**

**Background**

On July 1, 2011, the 2011 General Session enacted Senate Bill 134 (SB 134), Transparency in Health Care Provider Advertising, which amended Utah Code § 58-1-501.6. This law requires all licensed health care providers to include their name and license type in any advertisement for health care services. The amended provisions of SB 134 apply to any advertisement for the health care provider’s services if the health care provider’s licensing authority and professional ethics permits advertisements.

**Advertisements for health care services**

Any advertisement that includes the health care provider’s name must identify the type of license as used by the division the health care provider is practicing.

Under SB 134, the definition of advertisement includes “any means of promotion intended to directly or indirectly induce a person to enter into an agreement for services with a health care provider.” Specifically, the bill applies to “billboards, brochures, pamphlets, direct mail solicitations, radio, television, telephone solicitation scripts, telephone directories, televisions, radio, Internet websites, and any other means of promotion” for health care services. The bill does not apply to materials that provide information about health care provider networks established by health insurance carriers.
Violations
Violations are considered acts of unprofessional conduct.

Arizona SB 1255 (2010)

Background
On April 20, 2010, the governor of Arizona signed Senate Bill 1255 (SB 1255), which amends Arizona Revised Statutes § 32-3200 to include provisions relating to truth in advertising.

Advertisements for health care services
SB 1255 requires that any advertisement for health care services must include the health professionals’ title, type of license held and type of license under which the health professional practices. Any health professional who violates the requirements commits an act of unprofessional conduct.

For the purposes of the act, advertising includes billboards, brochures, pamphlets, radio and TV scripts, electronic media, telephone directories, telephone/mail solicitations and other means of promoting the health professional—directly or indirectly—in order to obtain business from consumers.

Insurers and other entities regulated under Arizona Title 20 are not covered by SB 1255.

California AB 583 (2010)

Background
On Sept. 29, 2010, the governor of California signed Assembly Bill 583 (AB 583), which amends Division 2, Chapter 1, Article 5 of the California Business and Professions Code to include provisions related to truth in advertising.

Advertisements for health care services
With limited exceptions, all health care practitioners will be required to communicate to a patient his or her name, state-granted practitioner license type, and highest level of academic degree. The disclosure requirement may be satisfied by providing the patient a writing at the patient’s initial office visit or by prominently displaying a writing in an area visible to patients in the practitioner’s office.

Health care practitioners who provide information regarding health care services on the Internet will be required to prominently display the practitioner’s name, state-granted practitioner license type and highest level of academic degree. Physicians who are certified by an American Board of Medical Specialties member board or equivalent board approved by the practitioner’s medical licensing authority shall disclose the name of the board or association.

Illinois SB 3509 (2010)

On July 27, 2010, the Governor of Illinois signed into law Senate Bill 3509 (SB 3509), which creates the Truth in Health Care Professional Services Act. In creating the Truth in Health Care Professional Services Act, legislators expressed the need for Illinois patients to be promptly and clearly informed about health care professionals’ education and training.
Definitions
Under the Truth in Health Care Professional Services Act, “advertisements” are defined broadly and include printed, electronic and oral media that identify the health care professional, as well as business cards, letterhead, brochures, email, Internet, audio and video, and other communication used in the course of business. Advertisements and communications that mis-state, falsely describe, or falsely represent a health care professional’s skills, training, expertise, education, board certification or licensure are deemed “deceptive” or “misleading.”

Advertisements for health care services
Under the Truth in Health Care Professional Services Act, advertisements for health care services must identify the type of license the health care professional possesses. Ads also must be free of deceptive or misleading information.

Disclosure requirements
A health care professional also must conspicuously post and affirmatively communicate his or her licensure in the following manner:

• Wear a visible name tag during all patient encounters that identifies his or her license
• If seeing patients in an office, there must be a visible writing displayed that clearly identifies the type of license the health care professional possesses
• Use titles or initials authorized by the applicable licensing act
• If working in more than one office, the health care professional must comply with these requirements in each setting

Health care professionals working in non-patient care settings and who do not have direct patient care interactions are not required to comply with these requirements.

Violations and enforcement
Health care professionals found to be in violation of the act are guilty of unprofessional conduct and are subject to disciplinary action based on the specific law(s) governing their profession.

Oklahoma HB 1569 (2010)
Background
On May 11, 2010, the governor of Oklahoma signed House Bill 1569 (HB 1569), which amends several sections of the state professions and occupations statutes to include provisions related to disclosure requirements and truth in advertising.

Use of the term “doctor” and “physician”
HB 1569 provides that nine classes of health professionals may use the title, “doctor” or “Dr.”—but such use also requires the person to clarify that title with the applicable licensing designation as follows:

1. The letters “DPM” or the words podiatrist, doctor of podiatry, podiatric surgeon, or doctor of podiatric medicine.
2. The letters “DC” or the words chiropractor or doctor of chiropractic.

3. The letters “DDS” or “DMD,” as appropriate, or the words dentist, doctor of dental surgery, or doctor of dental medicine, as appropriate.

4. The letters “MD” or the words surgeon, medical doctor, or doctor of medicine by a person licensed to practice medicine and surgery.

5. The letters “OD” or the words optometrist or doctor of optometry by a person licensed to practice optometry.

6. The letters “DO” or the words surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine.

7. The letters “PhD,” “EdD,” or “PsyD” or the words psychologist, therapist, or counselor by a person licensed as a health service psychologist.

8. The letters “PhD,” “EdD,” or other letters representing a doctoral degree or the words language pathologist, speech pathologist, or speech and language pathologist by a person licensed as a speech and language pathologist.

9. The letters “PhD,” “EdD,” or other letters representing a doctoral degree or the word audiologist by a person licensed as an audiologist.

Under the statute, “physician” includes medical doctors, doctors of osteopathic medicine, podiatrists, chiropractors, dentists and optometrists.

Each of the nine classes are required to provide written notice, which may include wearing a name tag, that identifies the type of license. Each applicable licensing board is authorized to create, by rule, how its license holders will comply with this disclosure requirement.

Advertisements for health care services

Under HB 1569, any advertisement for health care services that names a provider must identify the type of license of the provider, using the applicable letters or words for the profession. The term “advertisement” includes any printed document including letterhead, video clip, or audio clip created by, for, or at the direction of the provider or providers and advertised for the purpose of promoting the services of the doctor or provider.

The term “deceptive or misleading statement or act” includes, but is not limited to:

a. Such statement or act in any advertising medium;

b. Making a false statement regarding the education, skills, training, or licensure of a person; or

c. In any other way describing the profession, skills, training, expertise, education, or licensure of a person in a fashion that causes the public, a potential patient, or current patient to believe that the person is a medical doctor, doctor of osteopathic medicine, doctor of dental surgery, doctor of dental medicine, doctor of optometry, doctor of podiatry, or doctor of chiropractic when that person does not hold such credentials.
Violations
Any licensed health care provider found by the appropriate licensing board or state agency to have violated the act shall be punished by a fine not less than $25 and not more than $1,000. Each day the act is violated shall constitute a separate offense. Repeated or gross violations of the act shall be referred to the Attorney General.
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