

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO HEALTH CARE PRACTITIONER TRANSPARENCY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that there are a  
2 multitude of professional degrees using the term "doctor",  
3 including medical doctor or "M.D.", doctor of osteopathic  
4 medicine or "D.O.", doctor of dental surgery or "D.D.S.", doctor  
5 of podiatric medicine or "D.P.M.", doctor of optometry or  
6 "O.D.", doctor of chiropractic or "D.C.", and other designations  
7 that may be used by health care practitioners.

8           The legislature further finds that a 2014 study by the  
9 American Medical Association found that nearly twenty-two per  
10 cent of patients believe a chiropractor is a medical doctor;  
11 thirty-five per cent of patients believe a doctor of nursing  
12 practice is a medical doctor; thirty-six per cent of patients  
13 believe a psychologist is a medical doctor; forty-two per cent  
14 of patients believe an optometrist is a medical doctor; and  
15 seventy-four per cent of patients believe a podiatrist is a  
16 medical doctor.



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1           The legislature additionally finds that there are  
2 widespread differences regarding the training and qualifications  
3 required to earn various health care practitioner degrees.  
4 These differences often concern the training and skills  
5 necessary to correctly detect, diagnose, prevent, and treat  
6 serious health care conditions.

7           The legislature also finds that there is a compelling state  
8 interest in patients being promptly and clearly informed of the  
9 training and qualifications of the health care practitioners who  
10 provide health care services to these patients. There is also a  
11 compelling state interest in the public being protected from  
12 potentially misleading and deceptive health care advertising  
13 that might cause patients to have undue expectations regarding  
14 the patients' treatment and outcome.

15           Accordingly, the purpose of this Act is to require:

- 16           (1) Advertisements for health care services that name a  
17 health care practitioner to identify the type of  
18 license held by the health care practitioner and be  
19 free of deceptive and misleading information; and





1 "Deceptive" or "misleading" includes but is not limited to  
2 any advertisement or affirmative communication or representation  
3 that misstates, falsely describes, holds out, or falsely details  
4 the health care practitioner's profession, skills, training,  
5 expertise, education, board certification, or licensure.

6 "Health care practitioner" or "practitioner" means:

- 7 (1) Practitioners of chiropractic licensed pursuant to  
8 chapter 442, and signified by the letters "D.C." or  
9 the words "chiropractor" or "doctor of chiropractic";
- 10 (2) Practitioners of dentistry licensed pursuant to  
11 chapter 448, and signified by the letters "D.D.S." or  
12 "D.M.D." or the words "dentist", "doctor of dental  
13 surgery", or "doctor of dental medicine";
- 14 (3) Practitioners of allopathic medicine or surgery  
15 licensed pursuant to chapter 453 and signified by the  
16 letters "Dr." or "M.D." or the words "surgeon",  
17 "physician", "medical doctor", or "doctor of  
18 medicine";
- 19 (4) Practitioners of osteopathic medicine or surgery  
20 licensed pursuant to chapter 453 and signified by the  
21 letters "Dr." or "D.O." or the words "surgeon",



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- 1 "osteopathic surgeon", "osteopathic physician",  
2 "osteopath", "doctor of osteopathy", or "doctor of  
3 osteopathic medicine";
- 4 (5) Physician assistants licensed pursuant to chapter 453  
5 and signified by the letters "P.A." or the words  
6 "physician assistant";
- 7 (6) Practitioners of naturopathic medicine licensed  
8 pursuant to chapter 455 and signified by the letters  
9 "N.D." or the words "naturopathic physician",  
10 "naturopathic doctor", "naturopath", "doctor of  
11 naturopathy", or "doctor of naturopathic medicine";
- 12 (7) Practitioners of nursing licensed pursuant to chapter  
13 457 and signified by the letters "A.P.R.N.", "L.P.N.",  
14 or "R.N."; the words "Advanced Practice Registered  
15 Nurse", "Licensed Practical Nurse", or "Registered  
16 Nurse"; or any other commonly used signifier to denote  
17 a doctorate of nursing practice, nurse practitioner,  
18 or certified registered nurse anesthetist, as  
19 appropriate, which signify the appropriate degree of  
20 licensure and degree earned from a regionally-



- 1           accredited institution of higher education in the  
2           appropriate field of learning;
- 3           (8) Certified nurse aides licensed pursuant to chapter  
4           457A and signified by the letters "C.N.A." or  
5           "certified nurse aide";
- 6           (9) Practitioners of optometry licensed pursuant to  
7           chapter 459 and signified by the letters "O.D." or the  
8           words "optometrist" or "doctor of optometry";
- 9           (10) Practitioners of podiatric medicine licensed pursuant  
10          to chapter 463E and signified by the letters "D.P.M."  
11          or the words "podiatrist", "doctor of podiatric  
12          medicine", or "doctor of podiatry";
- 13          (11) Practitioners of speech pathology or audiology  
14          licensed pursuant to chapter 468E and signified by the  
15          letters "Au.D.", "Sc.D.", or "Ph.D."; the words  
16          "speech pathologist", "speech therapist",  
17          "audiologist", "doctor of audiology"; or other words  
18          that signify the appropriate degree of licensure and  
19          degree earned from a regionally-accredited institution  
20          of higher education in the appropriate field of  
21          learning; and



1           (12) Mental health counselors licensed pursuant to chapter  
2           453D, pharmacists licensed pursuant to chapter 461,  
3           physical therapists licensed pursuant to chapter 461J,  
4           psychologists licensed pursuant to chapter 465, or any  
5           other health care practitioner not covered under this  
6           section, including but not limited to those signified  
7           by the letters "Ph.D.", "Ed.D.", "Pharm.D.", "P.T.",  
8           "M.P.T.", "Psy.D.", or "Sc.D.", as appropriate to  
9           signify the appropriate degree of licensure and degree  
10          earned from a regionally-accredited institution of  
11          higher education in the appropriate field of learning.

12          "Licensee" means a health care practitioner who holds an  
13          active license with the appropriate licensing authority.

14          "Licensing authority" shall have the same meaning as in  
15          section 436B-2.

16          §   -3   **Requirements.** (a) An advertisement for health  
17          care services that names a health care practitioner shall  
18          identify the type of license held by the health care  
19          practitioner and granted by the appropriate licensing authority.  
20          The advertisement shall be free from any and all deceptive or  
21          misleading information.



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1           (b) A health care practitioner who provides health care  
2 services in the State shall conspicuously post and affirmatively  
3 communicate the practitioner's specific license as follows:

4           (1) The health care practitioner shall wear a photo  
5 identification name tag during all patient encounters  
6 that shall include:

7           (A) A recent photograph of the practitioner;

8           (B) The practitioner's name;

9           (C) The type of license (e.g., "medical doctor",  
10 "psychologist", "advanced practice registered  
11 nurse", "podiatrist"); and

12           (D) The expiration date of the license;

13 provided that the name tag shall be of sufficient size  
14 and worn in a conspicuous manner so as to be visible  
15 and apparent; and

16           (2) The health care practitioner shall display in the  
17 practitioner's office a writing that clearly  
18 identifies the type of license held by the  
19 practitioner; provided that the writing shall be of  
20 sufficient size so as to be visible and apparent to  
21 all current and prospective patients.





1 (c) A health care practitioner who practices in more than  
2 one office shall comply with the requirements of subsections (a)  
3 and (b) in each practice setting.

4 (d) A physician or osteopathic physician licensed pursuant  
5 to section 453 who supervises or participates in collaborative  
6 practice agreements with non-physician or non-osteopathic  
7 physician health care practitioners shall conspicuously post in  
8 each office a schedule of the regular hours when the physician  
9 or osteopathic physician will be present in that office.

10 **§ -4 Violations and enforcement.** (a) Failure to comply  
11 with this chapter shall constitute a violation. Each day of  
12 such failure shall constitute a separate violation.

13 (b) Any licensee knowingly aiding or abetting an  
14 unlicensed person to directly or indirectly evade this chapter  
15 or the applicable licensing laws, or combining or conspiring  
16 with an unlicensed person, or permitting one's license to be  
17 used by an unlicensed person, or acting as agent, partner,  
18 associate, or otherwise, of an unlicensed person with the intent  
19 to evade this chapter or the applicable licensing laws shall  
20 constitute a violation under this chapter.



1           (c) Any health care practitioner who violates this chapter  
2 shall be guilty of unprofessional conduct and shall be subject  
3 to disciplinary action by the appropriate licensing authority.

4           (d) The department of commerce and consumer affairs or the  
5 appropriate licensing authority may maintain a suit to enjoin  
6 the performance or the continuance of any act or acts by a  
7 person or entity violating this chapter.

8           (e) Notwithstanding any law to the contrary, any final  
9 order of discipline taken pursuant to this section shall be a  
10 matter of public record.

11           (f) Fees and other amounts billed to and paid by a patient  
12 to a health care practitioner who has been found to have  
13 violated this chapter, including amounts paid to third parties  
14 contracted to collect fees on behalf of the health care  
15 practitioner, health care practitioner's employer, or other  
16 entity contracting with the health care practitioner, shall be  
17 rescinded and refunded.

18           § -5 Exemptions. This chapter shall not apply to health  
19 care practitioners working in non-patient care settings and who  
20 do not have any direct patient care interactions."



1           SECTION 3. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7           SECTION 4. This Act shall take effect upon its approval.  
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INTRODUCED BY:

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**Report Title:**

Health Care Practitioners; Transparency; Licensing;  
Advertisements; Discipline

**Description:**

Requires advertisements for health care services that name a health care practitioner to identify the type of license held by the health care practitioner and be free of deceptive and misleading information. Requires health care practitioners to conspicuously post and affirmatively communicate the practitioner's specific license and related information.

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