

1 INTERIM STUDY PROPOSAL 2013-085

2 State of Arkansas

As Engrossed: H3/14/13

3 89th General Assembly

A Bill

4 Regular Session, 2013

HOUSE BILL 2261

5
6 By: Representative Ferguson

7 Filed with: Interim House Committee on Public Health, Welfare and Labor

8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT TO PROVIDE TRANSPARENCY TO PATIENTS IN HEALTH
11 CARE SETTINGS; TO PROVIDE PATIENTS WITH INFORMED
12 CHOICES WHEN SEEKING A HEALTH CARE PRACTITIONER; AND
13 FOR OTHER PURPOSES.

16 Subtitle

17 THE TRANSPARENCY IN HEALTH CARE
18 CREDENTIALS ACT.

19
20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 *SECTION 1. Arkansas Code Title 17, Chapter 80, is amended to add an*
24 *additional subchapter to read as follows:*

26 Subchapter 4 –Transparency in Health Care Credentials Act

27
28 17-80-401. This subchapter shall be known and may be cited as the
29 "Transparency in Health Care Credentials Act".

31 17-80-402. Findings.

32 The General Assembly finds that:

33 (1) Many professional degrees using the term "doctor", including
34 Medical Doctor (M.D.); Doctor of Osteopathy (D.O.); Doctor of Dental Surgery
35 (D.D.S.); Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (D.O.);

1 Doctor of Chiropractic (D.C.), and other designations may be used by
2 healthcare practitioners;

3 (2) Surveys show that many patients are confused about the
4 differences among the various health care professions;

5 (3) There is a compelling state interest in patients being
6 properly and clearly informed of the training and qualifications of the
7 healthcare practitioners that provide healthcare services; and

8 (4) There is a compelling state interest in the public being
9 protected from potentially confusing, deceptive, or misleading healthcare
10 advertising that might cause patients to have undue expectations regarding
11 their treatment and outcome.

12
13 17-80-403. Definitions.

14 As used in this subchapter:

15 (1)(A) "Advertisement" means a commercial or professional
16 communication naming a licensed or registered healthcare practitioner in
17 relation to the practice, profession, or institution in which the licensed or
18 registered healthcare practitioner is employed, volunteers, or otherwise
19 provides health services, including without limitation statements:

20 (i) In audio, video, or both;

21 (ii) On business cards;

22 (iii) Through the Internet;

23 (iv) On letterhead; and

24 (v) In patient brochures.

25 (B)(i) "Advertisement" does not include information
26 entries in building directories, telephone book listings or similar
27 informational compendia.

28 (ii) However, "advertisement" include advertisements
29 published in building directories, telephone book listings or similar
30 informational compendia.

31 (2) "Deceptive" or "misleading" includes without limitation an
32 advertisement or affirmative communication or representation that misstates,
33 falsely describes, falsely holds out, or falsely details a healthcare
34 practitioner's profession, skills, training, expertise, education, board
35 certification, or licensure;

36 (3) "Healthcare practitioner" means:

1 (A) An acupuncture practitioner, licensed acupuncturist,
2 certified acupuncturist, and Oriental acupuncture practitioner;

3 (B) An advanced practice nurse, licensed practical nurse,
4 licensed psychiatric technician nurse, registered nurse, and registered nurse
5 practitioner;

6 (C) An audiologist;

7 (D) A chiropractor, chiropractic physician, and doctor of
8 chiropractic;

9 (E) A dentist, doctor of dental medicine, and doctor of
10 dental surgery;

11 (F) A dietitian, registered dietitian, licensed dietitian,
12 provisionally licensed dietitian, and dietetic technician;

13 (G) A disease intervention specialist;

14 (H) A medical doctor, physician, and surgeon;

15 (I) An occupational therapist, licensed occupational
16 therapist, and occupational therapist registered;

17 (J) An optometrist, doctor of optometry, and optometric
18 physician;

19 (K) A physician, osteopathic physician and surgeon, doctor
20 of osteopathic medicine, and doctor of osteopathy;

21 (L) A pharmacist, licensed pharmacist, and doctor of
22 pharmacy;

23 (M) A physical therapist, registered physical therapist,
24 physiotherapist, and doctor of physical therapy;

25 (N) A physician assistant;

26 (O) A podiatrist, podiatric physician, doctor of podiatric
27 medicine, and doctor of podiatric medicine and surgery;

28 (P) A psychologist and psychological examiner;

29 (Q) A social worker, licensed social worker, licensed
30 master social worker, and licensed certified social worker;

31 (R) A speech language pathologist; and

32 (S) An orthotist, orthotist/prosthetist, prosthetist, and
33 pedorthist.

34
35 17-80-404. Advertising and display requirements.

1 (a)(1) An advertisement for healthcare services that names a
2 healthcare practitioner shall identify the type of license or degree of the
3 practitioner.

4 (2) Outdoor signage existing before the date of August 1, 2013,
5 is not required to meet the requirements of this act until such time as the
6 signage is modified or replaced.

7 (3) The advertisement shall not include deceptive and misleading
8 information.

9 (b)(1) A healthcare practitioner providing healthcare services in this
10 state shall use a name tag or clothing that includes the practitioner's first
11 or last name, or both and immediately following the name contains the
12 recognized abbreviation indicating the healthcare practitioner's professional
13 license or degree, or both, and contains immediately below the licensure or
14 degree, in easily readable lettering, the descriptive title authorized by the
15 statutes listed in subdivision (b)(3) of this section to describe the
16 practitioner.

17 (2) If the healthcare practitioner does not use a name tag or
18 clothing that includes the practitioner's name, the practitioner shall:

19 (A) Give the patient, at the initial care interaction
20 after the effective date of this act, an electronic or written document that
21 includes the information described in subdivision (b)(1) of this section; or

22 (B) Post a writing at the reception desk or similar
23 conspicuous location with the information described in (b)(1).

24 (3) If the provisions of subdivision (b)(3) of this section
25 later change the descriptive titles, the practitioner shall use the then-
26 current version of the following descriptive titles:

27 (A) "Acupuncture practitioner", "licensed acupuncturist",
28 "certified acupuncturist", or "Oriental acupuncture practitioner", as
29 applicable, for practitioners of acupuncture licensed under § 17-102-101 et
30 seq.;

31 (B) "Advanced practice nurse" for practitioners of nursing
32 licensed under § 17-87-302 as advanced registered nurse practitioners,
33 certified registered nurse anesthetists, certified nurse midwives, or
34 clinical nurse specialists; "licensed practical nurse" for practitioners of
35 nursing licensed under § 17-87-304; "licensed psychiatric technician nurse"
36 for practitioners of nursing licensed under § 17-87-305; "registered nurse"

1 for practitioners of nursing licensed under § 17-87-301, and "registered
2 nurse practitioner" for practitioners of nursing licensed under § 17-87-303;

3 (C) "Audiologist" for practitioners of audiology licensed
4 under § 17-100-101 et seq.;

5 (D) "Chiropractor", "chiropractic physician", or "doctor
6 of chiropractic" for practitioners of chiropractic licensed under § 17-81-101
7 et seq.;

8 (E) "Dentist", "doctor of dental medicine", or "doctor of
9 dental surgery" for practitioners of dentistry licensed under § 17-82-101 et
10 seq.;

11 (F) "Dietitian", "registered dietitian", "licensed
12 dietitian", "provisionally licensed dietitian", or "dietetic technician" for
13 practitioners of dietetics licensed under § 17-83-101 et seq.;

14 (G) "Disease intervention specialist" for practitioners of
15 disease intervention registered under the provisions of § 17-98-101 et seq.;

16 (H) "Medical doctor", "physician", "medical doctor and
17 surgeon", or "surgeon", as applicable, for practitioners of medicine and
18 surgery licensed under § 17-95-101 et seq.;

19 (I) "Occupational therapist", "licensed occupational
20 therapist", or "occupational therapist registered", as applicable, for
21 practitioners of occupational therapy licensed under § 17-88-101 et seq.;

22 (J) "Optometrist", "doctor of optometry", or "optometric
23 physician" for practitioners of optometry licensed under § 17-90-101 et seq.;

24 (K) "Orthotist", "orthotist/prosthetist", "prosthetist",
25 or "pedorthist", as applicable, for practitioners of orthotics, pedorthics,
26 or prosthetics licensed under § 17-107-101 et seq.;

27 (L) "Pharmacist", "licensed pharmacist", or "doctor of
28 pharmacy" for practitioners of pharmacy licensed under § 17-92-101 et seq.;

29 (M) "Physical therapist", "registered physical therapist",
30 "physiotherapist", or "doctor of physical therapy", as applicable, for
31 practitioners of physical therapy licensed under § 17-93-101 et seq.;

32 (N) "Physician", "osteopathic physician and surgeon",
33 "doctor of osteopathic medicine", or "doctor of osteopathy" for practitioners
34 of osteopathy licensed under § 17-91-101 et seq.;

1 (O) "Physician assistant" for practitioners who are
2 licensed under § 17-105-101 et seq., to provide healthcare services under the
3 supervision of a physician;

4 (P) "Podiatrist", "podiatric physician", "doctor of
5 podiatric medicine", or "doctor of podiatric medicine and surgery" for
6 practitioners of podiatry licensed under § 17-96-101 et seq.;

7 (Q) "Psychologist" or "psychological examiner", as
8 applicable, for practitioners of psychology licensed under § 17-97-101 et
9 seq.;

10 (R) "Social worker", "licensed social worker", "licensed
11 master social worker", or "licensed certified social worker", as applicable,
12 for practitioners of social work licensed under § 17-103-101 et seq.; and

13 (S) "Speech-language pathologist" for practitioners of
14 speech-language pathology licensed under § 17-100-101 et seq., and

15 (c) The following are examples of permissible identification:

16 "Sue Hernandez, M.D.

17 Physician"

18
19 "Fred Jones, M.S.P.A.S.

20 Physician Assistant"

21
22 "Erica Goldberg, D.N.P.

23 Advanced Practice Nurse"

24 (d)(1) A recognized field or specialty within the profession of a
25 healthcare practitioner listed under subdivision (b)(3) of this section that
26 is recognized or approved by the appropriate licensing board may substitute
27 the field or specialty designation for the descriptive titles indicated in
28 subdivision (b)(3) of this section.

29 (2) The following are examples of permissible substitutions:

30 "John Caputo, M.D.

31 Dermatologist"

32
33 "David Smith, D.D.S.

34 General Dentist"

35 (e) A healthcare practitioner who practices in more than one (1)
36 office shall comply with this section in each office.

1 (f) This section does not apply to a healthcare practitioner listed in
2 subdivision (b)(3) of this section who has no direct patient care
3 interactions.

4 (g) The requirements of this section involving use of practitioner
5 descriptive titles on name tags and clothing do not apply to job performance
6 within an operating room, including pre-operative and post-operative
7 locations.

8 (h) When the names of multiple practitioners with the same descriptive
9 title are referenced together in advertisements, the descriptive title need
10 not be repeated.

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12 17-80-405. Other persons providing health care.

13 (a) A person involved in health care who is not covered under § 17-80-
14 403 and who has direct patient care interactions shall wear name tags or
15 clothing that displays his or her certification or registration, if any, and
16 his or her job title during all patient care interactions occurring after
17 January 1, 2015.

18 (b) This section does not apply to job performance within an operating
19 room, including pre-operative and post-operative locations.

20
21 17-80-406. Violations and enforcement.

22 (a) A healthcare practitioner who violates this section is subject to
23 disciplinary action under the appropriate licensure provisions governing the
24 healthcare practitioner.

25 (b) A violation does not create a private right of action.

26 (c) A licensing board may enforce violations of this subchapter only
27 against a licensee of the board.

28
29 17-80-407. Other laws and rules.

30 (a) This subchapter does not supersede a more stringent law or more
31 stringent rule imposed by a licensing board.

32 (b) This subchapter does not prohibit use of the title "doctor" by a
33 healthcare practitioner, if use of that title is permitted by the
34 practitioner's applicable licensing act.

