

By Senator Dyer

14-1241-02

See HB

1 A bill to be entitled
2 An act relating to health care; amending s.
3 456.072, F.S.; providing that failure to
4 disclose medical licensure and postgraduate
5 training in advertisements for health care
6 services or to patients upon initiation of the
7 professional relationship constitutes a ground
8 for discipline of a health care practitioner;
9 providing that failure to disclose medical
10 licensure, scope of practice, and postgraduate
11 training when providing a professional opinion,
12 regardless of setting, constitutes a ground for
13 discipline of a health care practitioner;
14 providing exceptions; providing penalties;
15 reenacting ss. 457.109(2), 458.3135(2)(d),
16 458.331(2), 459.015(2), 460.413(2), 461.013(2),
17 462.14(2), 463.016(2), 464.018(2), 465.016(2),
18 466.028(2), 467.203(2), 468.1295(2),
19 468.1755(1)(a) and (2), 468.217(2), 468.365(2),
20 468.518(2), 468.719(2), 468.811(2), 478.52(2),
21 480.046(2), 483.825(2), 483.901(6)(h),
22 484.014(2), 484.056(1)(a) and (2)(a),
23 486.125(2), 490.009(2), 491.009(2), F.S.,
24 relating to grounds for disciplinary action
25 applicable to acupuncture, medical practice,
26 osteopathic medicine, chiropractic medicine,
27 podiatric medicine, naturopathy, optometry,
28 nursing, pharmacy, dentistry, midwifery,
29 speech-language pathology and audiology,
30 nursing home administration, occupational
31 therapy, respiratory therapy, dietetics and

1 nutrition practice, athletic trainers,
2 orthotics, prosthetics, and pedorthics,
3 electrolysis, massage practice, clinical
4 laboratory personnel, medical physicists,
5 dispensing of optical devices and hearing aids,
6 physical therapy practice, psychological
7 services, and clinical, counseling, and
8 psychotherapy services, to incorporate the
9 amendment to s. 456.072, F.S., in references
10 thereto; amending s. 458.309, F.S.; providing
11 requirements for approval of boards granting
12 medical specialty certification; amending s.
13 458.331, F.S.; expanding the disciplinary
14 ground of false, deceptive, or misleading
15 advertising applicable to physicians to include
16 failure to disclose information relating to
17 medical specialty and postgraduate training in
18 advertisements and informed consent forms;
19 providing penalties; providing an effective
20 date.

21
22 WHEREAS, the Legislature finds that there exists a
23 compelling state interest that patients be informed of the
24 credentials of the health care practitioners that treat them
25 and that the public be protected from misleading health care
26 advertising, and

27 WHEREAS, the Legislature further finds that the areas
28 of practice licensure and board certification can be extremely
29 confusing for patients and that practitioners could easily
30 trick patients into believing that the practitioner is better
31

1 qualified than other practitioners simply by creating a sham
2 designation or creating a sham certification body, and

3 WHEREAS, the Legislature further finds that the
4 American Board of Medical Specialties and its component boards
5 are universally recognized as the preeminent certification
6 organizations and that they promote and uphold the highest
7 standards in medical specialization, and

8 WHEREAS, the Legislature therefore determines that the
9 most direct and effective manner in which to protect patients
10 from this identifiable harm is to ensure that patients have a
11 standard and easily understood method of recognizing
12 legitimate certification bodies and that patients be informed
13 of the training of their health care practitioners, NOW,
14 THEREFORE,

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (cc) of subsection (1) of section
19 456.072, Florida Statutes, is redesignated as paragraph (ee),
20 and new paragraphs (cc) and (dd) are added to that subsection
21 to read:

22 456.072 Grounds for discipline; penalties;
23 enforcement.--

24 (1) The following acts shall constitute grounds for
25 which the disciplinary actions specified in subsection (2) may
26 be taken:

27 (cc) In any advertisement for health care services,
28 and no later than at the time of initiation of a professional
29 relationship with a patient, failing to provide, at a minimum,
30 the type of license under which the health care practitioner
31 is operating and all fields in which the health care

1 practitioner has completed postgraduate training, with such
2 disclosure being documented in the treatment record for the
3 patient. This paragraph does not apply to health care
4 practitioners while they are providing services in facilities
5 licensed pursuant to chapter 395 or chapter 400.

6 (dd) When providing a professional opinion, regardless
7 of setting, failing to provide, at a minimum, the type of
8 license under which the health care practitioner is operating,
9 the scope of the health care practitioner's practice, and all
10 fields in which the health care practitioner has completed
11 postgraduate training. This paragraph does not apply to
12 health care practitioners while they are providing services in
13 facilities licensed pursuant to chapter 395 or chapter 400.

14 Section 2. For the purpose of incorporating the
15 amendment to section 456.072, Florida Statutes, in references
16 thereto, subsection (2) of section 457.109, Florida Statutes,
17 is reenacted to read:

18 457.109 Disciplinary actions; grounds; action by the
19 board.--

20 (2) The board may enter an order denying licensure or
21 imposing any of the penalties in s. 456.072(2) against any
22 applicant for licensure or licensee who is found guilty of
23 violating any provision of subsection (1) of this section or
24 who is found guilty of violating any provision of s.
25 456.072(1).

26 Section 3. For the purpose of incorporating the
27 amendment to section 456.072, Florida Statutes, in references
28 thereto, subsection (2) of section 458.3135, Florida Statutes,
29 is reenacted to read:

30 458.3135 Temporary certificate for visiting physicians
31 to practice in approved cancer centers.--

1 (2) A temporary certificate for practice in an
2 approved cancer center may be issued without examination to an
3 individual who:

4 (a) Is a graduate of an accredited medical school or
5 its equivalent, or is a graduate of a foreign medical school
6 listed with the World Health Organization;

7 (b) Holds a valid and unencumbered license to practice
8 medicine in another country;

9 (c) Has completed the application form adopted by the
10 board and remitted a nonrefundable application fee not to
11 exceed \$300;

12 (d) Has not committed any act in this or any other
13 jurisdiction which would constitute the basis for disciplining
14 a physician under s. 456.072 or s. 458.331;

15 (e) Meets the financial responsibility requirements of
16 s. 458.320; and

17 (f) Has been accepted for a course of training by a
18 cancer center approved by the board.

19 Section 4. For the purpose of incorporating the
20 amendment to section 456.072, Florida Statutes, in references
21 thereto, subsection (2) of section 458.331, Florida Statutes,
22 is reenacted to read:

23 458.331 Grounds for disciplinary action; action by the
24 board and department.--

25 (2) The board may enter an order denying licensure or
26 imposing any of the penalties in s. 456.072(2) against any
27 applicant for licensure or licensee who is found guilty of
28 violating any provision of subsection (1) of this section or
29 who is found guilty of violating any provision of s.
30 456.072(1). In determining what action is appropriate, the
31 board must first consider what sanctions are necessary to

1 protect the public or to compensate the patient. Only after
2 those sanctions have been imposed may the disciplining
3 authority consider and include in the order requirements
4 designed to rehabilitate the physician. All costs associated
5 with compliance with orders issued under this subsection are
6 the obligation of the physician.

7 Section 5. For the purpose of incorporating the
8 amendment to section 456.072, Florida Statutes, in references
9 thereto, subsection (2) of section 459.015, Florida Statutes,
10 is reenacted to read:

11 459.015 Grounds for disciplinary action; action by the
12 board and department.--

13 (2) The board may enter an order denying licensure or
14 imposing any of the penalties in s. 456.072(2) against any
15 applicant for licensure or licensee who is found guilty of
16 violating any provision of subsection (1) of this section or
17 who is found guilty of violating any provision of s.
18 456.072(1). In determining what action is appropriate, the
19 board must first consider what sanctions are necessary to
20 protect the public or to compensate the patient. Only after
21 those sanctions have been imposed may the disciplining
22 authority consider and include in the order requirements
23 designed to rehabilitate the physician. All costs associated
24 with compliance with orders issued under this subsection are
25 the obligation of the physician.

26 Section 6. For the purpose of incorporating the
27 amendment to section 456.072, Florida Statutes, in references
28 thereto, subsection (2) of section 460.413, Florida Statutes,
29 is reenacted to read:

30 460.413 Grounds for disciplinary action; action by
31 board or department.--

1 (2) The board may enter an order denying licensure or
2 imposing any of the penalties in s. 456.072(2) against any
3 applicant for licensure or licensee who is found guilty of
4 violating any provision of subsection (1) of this section or
5 who is found guilty of violating any provision of s.
6 456.072(1). In determining what action is appropriate, the
7 board must first consider what sanctions are necessary to
8 protect the public or to compensate the patient. Only after
9 those sanctions have been imposed may the disciplining
10 authority consider and include in the order requirements
11 designed to rehabilitate the chiropractic physician. All costs
12 associated with compliance with orders issued under this
13 subsection are the obligation of the chiropractic physician.

14 Section 7. For the purpose of incorporating the
15 amendment to section 456.072, Florida Statutes, in references
16 thereto, subsection (2) of section 461.013, Florida Statutes,
17 is reenacted to read:

18 461.013 Grounds for disciplinary action; action by the
19 board; investigations by department.--

20 (2) The board may enter an order denying licensure or
21 imposing any of the penalties in s. 456.072(2) against any
22 applicant for licensure or licensee who is found guilty of
23 violating any provision of subsection (1) of this section or
24 who is found guilty of violating any provision of s.
25 456.072(1).

26 Section 8. For the purpose of incorporating the
27 amendment to section 456.072, Florida Statutes, in references
28 thereto, subsection (2) of section 462.14, Florida Statutes,
29 is reenacted to read:

30 462.14 Grounds for disciplinary action; action by the
31 department.--

1 (2) The department may enter an order denying
2 licensure or imposing any of the penalties in s. 456.072(2)
3 against any applicant for licensure or licensee who is found
4 guilty of violating any provision of subsection (1) of this
5 section or who is found guilty of violating any provision of
6 s. 456.072(1).

7 Section 9. For the purpose of incorporating the
8 amendment to section 456.072, Florida Statutes, in references
9 thereto, subsection (2) of section 463.016, Florida Statutes,
10 is reenacted to read:

11 463.016 Grounds for disciplinary action; action by the
12 board.--

13 (2) The department may enter an order imposing any of
14 the penalties in s. 456.072(2) against any licensee who is
15 found guilty of violating any provision of subsection (1) of
16 this section or who is found guilty of violating any provision
17 of s. 456.072(1).

18 Section 10. For the purpose of incorporating the
19 amendment to section 456.072, Florida Statutes, in references
20 thereto, subsection (2) of section 464.018, Florida Statutes,
21 is reenacted to read:

22 464.018 Disciplinary actions.--

23 (2) The board may enter an order denying licensure or
24 imposing any of the penalties in s. 456.072(2) against any
25 applicant for licensure or licensee who is found guilty of
26 violating any provision of subsection (1) of this section or
27 who is found guilty of violating any provision of s.
28 456.072(1).

29 Section 11. For the purpose of incorporating the
30 amendment to section 456.072, Florida Statutes, in references
31

1 thereto, subsection (2) of section 465.016, Florida Statutes,
2 is reenacted to read:

3 465.016 Disciplinary actions.--

4 (2) The board may enter an order denying licensure or
5 imposing any of the penalties in s. 456.072(2) against any
6 applicant for licensure or licensee who is found guilty of
7 violating any provision of subsection (1) of this section or
8 who is found guilty of violating any provision of s.
9 456.072(1).

10 Section 12. For the purpose of incorporating the
11 amendment to section 456.072, Florida Statutes, in references
12 thereto, subsection (2) of section 466.028, Florida Statutes,
13 is reenacted to read:

14 466.028 Grounds for disciplinary action; action by the
15 board.--

16 (2) The board may enter an order denying licensure or
17 imposing any of the penalties in s. 456.072(2) against any
18 applicant for licensure or licensee who is found guilty of
19 violating any provision of subsection (1) of this section or
20 who is found guilty of violating any provision of s.
21 456.072(1).

22 Section 13. For the purpose of incorporating the
23 amendment to section 456.072, Florida Statutes, in references
24 thereto, subsection (2) of section 467.203, Florida Statutes,
25 is reenacted to read:

26 467.203 Disciplinary actions; penalties.--

27 (2) The department may enter an order denying
28 licensure or imposing any of the penalties in s. 456.072(2)
29 against any applicant for licensure or licensee who is found
30 guilty of violating any provision of subsection (1) of this
31

1 section or who is found guilty of violating any provision of
2 s. 456.072(1).

3 Section 14. For the purpose of incorporating the
4 amendment to section 456.072, Florida Statutes, in references
5 thereto, subsection (2) of section 468.1295, Florida Statutes,
6 is reenacted to read:

7 468.1295 Disciplinary proceedings.--

8 (2) The board may enter an order denying licensure or
9 imposing any of the penalties in s. 456.072(2) against any
10 applicant for licensure or licensee who is found guilty of
11 violating any provision of subsection (1) of this section or
12 who is found guilty of violating any provision of s.
13 456.072(1).

14 Section 15. For the purpose of incorporating the
15 amendment to section 456.072, Florida Statutes, in references
16 thereto, paragraph (a) of subsection (1) and subsection (2) of
17 section 468.1755, Florida Statutes, are reenacted to read:

18 468.1755 Disciplinary proceedings.--

19 (1) The following acts constitute grounds for denial
20 of a license or disciplinary action, as specified in s.
21 456.072(2):

22 (a) Violation of any provision of s. 456.072(1) or s.
23 468.1745(1).

24 (2) The board may enter an order denying licensure or
25 imposing any of the penalties in s. 456.072(2) against any
26 applicant for licensure or licensee who is found guilty of
27 violating any provision of subsection (1) of this section or
28 who is found guilty of violating any provision of s.
29 456.072(1).

30 Section 16. For the purpose of incorporating the
31 amendment to section 456.072, Florida Statutes, in references

1 thereto, subsection (2) of section 468.217, Florida Statutes,
2 is reenacted to read:

3 468.217 Denial of or refusal to renew license;
4 suspension and revocation of license and other disciplinary
5 measures.--

6 (2) The board may enter an order denying licensure or
7 imposing any of the penalties in s. 456.072(2) against any
8 applicant for licensure or licensee who is found guilty of
9 violating any provision of subsection (1) of this section or
10 who is found guilty of violating any provision of s.
11 456.072(1).

12 Section 17. For the purpose of incorporating the
13 amendment to section 456.072, Florida Statutes, in references
14 thereto, subsection (2) of section 468.365, Florida Statutes,
15 is reenacted to read:

16 468.365 Disciplinary grounds and actions.--

17 (2) The board may enter an order denying licensure or
18 imposing any of the penalties in s. 456.072(2) against any
19 applicant for licensure or licensee who is found guilty of
20 violating any provision of subsection (1) of this section or
21 who is found guilty of violating any provision of s.
22 456.072(1).

23 Section 18. For the purpose of incorporating the
24 amendment to section 456.072, Florida Statutes, in references
25 thereto, subsection (2) of section 468.518, Florida Statutes,
26 is reenacted to read:

27 468.518 Grounds for disciplinary action.--

28 (2) The board may enter an order denying licensure or
29 imposing any of the penalties in s. 456.072(2) against any
30 applicant for licensure or licensee who is found guilty of
31 violating any provision of subsection (1) of this section or

1 who is found guilty of violating any provision of s.
2 456.072(1).

3 Section 19. For the purpose of incorporating the
4 amendment to section 456.072, Florida Statutes, in references
5 thereto, subsection (2) of section 468.719, Florida Statutes,
6 is reenacted to read:

7 468.719 Disciplinary actions.--

8 (2) The board may enter an order denying licensure or
9 imposing any of the penalties in s. 456.072(2) against any
10 applicant for licensure or licensee who is found guilty of
11 violating any provision of subsection (1) of this section or
12 who is found guilty of violating any provision of s.
13 456.072(1).

14 Section 20. For the purpose of incorporating the
15 amendment to section 456.072, Florida Statutes, in references
16 thereto, subsection (2) of section 468.811, Florida Statutes,
17 is reenacted to read:

18 468.811 Disciplinary proceedings.--

19 (2) The board may enter an order denying licensure or
20 imposing any of the penalties in s. 456.072(2) against any
21 applicant for licensure or licensee who is found guilty of
22 violating any provision of subsection (1) of this section or
23 who is found guilty of violating any provision of s.
24 456.072(1).

25 Section 21. For the purpose of incorporating the
26 amendment to section 456.072, Florida Statutes, in references
27 thereto, subsection (2) of section 478.52, Florida Statutes,
28 is reenacted to read:

29 478.52 Disciplinary proceedings.--

30 (2) The board may enter an order denying licensure or
31 imposing any of the penalties in s. 456.072(2) against any

1 applicant for licensure or licensee who is found guilty of
2 violating any provision of subsection (1) of this section or
3 who is found guilty of violating any provision of s.
4 456.072(1).

5 Section 22. For the purpose of incorporating the
6 amendment to section 456.072, Florida Statutes, in references
7 thereto, subsection (2) of section 480.046, Florida Statutes,
8 is reenacted to read:

9 480.046 Grounds for disciplinary action by the
10 board.--

11 (2) The board may enter an order denying licensure or
12 imposing any of the penalties in s. 456.072(2) against any
13 applicant for licensure or licensee who is found guilty of
14 violating any provision of subsection (1) of this section or
15 who is found guilty of violating any provision of s.
16 456.072(1).

17 Section 23. For the purpose of incorporating the
18 amendment to section 456.072, Florida Statutes, in references
19 thereto, subsection (2) of section 483.825, Florida Statutes,
20 is reenacted to read:

21 483.825 Grounds for disciplinary action.--

22 (2) The board may enter an order denying licensure or
23 imposing any of the penalties in s. 456.072(2) against any
24 applicant for licensure or licensee who is found guilty of
25 violating any provision of subsection (1) of this section or
26 who is found guilty of violating any provision of s.
27 456.072(1).

28 Section 24. For the purpose of incorporating the
29 amendment to section 456.072, Florida Statutes, in references
30 thereto, paragraph (h) of subsection (6) of section 483.901,
31 Florida Statutes, is reenacted to read:

1 483.901 Medical physicists; definitions; licensure.--
2 (6) LICENSE REQUIRED.--An individual may not engage in
3 the practice of medical physics, including the specialties of
4 diagnostic radiological physics, therapeutic radiological
5 physics, medical nuclear radiological physics, or medical
6 health physics, without a license issued by the department for
7 the appropriate specialty.

8 (h) The board may enter an order denying licensure or
9 imposing any of the penalties in s. 456.072(2) against any
10 applicant for licensure or licensee who is found guilty of
11 violating any provision of subsection (1) of this section or
12 who is found guilty of violating any provision of s.
13 456.072(1).

14 Section 25. For the purpose of incorporating the
15 amendment to section 456.072, Florida Statutes, in references
16 thereto, subsection (2) of section 484.014, Florida Statutes,
17 is reenacted to read:

18 484.014 Disciplinary actions.--

19 (2) The board may enter an order denying licensure or
20 imposing any of the penalties in s. 456.072(2) against any
21 applicant for licensure or licensee who is found guilty of
22 violating any provision of subsection (1) of this section or
23 who is found guilty of violating any provision of s.
24 456.072(1).

25 Section 26. For the purpose of incorporating the
26 amendment to section 456.072, Florida Statutes, in references
27 thereto, paragraph (a) of subsection (1) and paragraph (a) of
28 subsection (2) of section 484.056, Florida Statutes, are
29 reenacted to read:

30 484.056 Disciplinary proceedings.--

31

1 (1) The following acts constitute grounds for denial
2 of a license or disciplinary action, as specified in s.
3 456.072(2):

4 (a) Violation of any provision of s. 456.072(1), s.
5 484.0512, or s. 484.053.

6 (2)(a) The board may enter an order denying licensure
7 or imposing any of the penalties in s. 456.072(2) against any
8 applicant for licensure or licensee who is found guilty of
9 violating any provision of subsection (1) of this section or
10 who is found guilty of violating any provision of s.
11 456.072(1).

12 Section 27. For the purpose of incorporating the
13 amendment to section 456.072, Florida Statutes, in references
14 thereto, subsection (2) of section 486.125, Florida Statutes,
15 is reenacted to read:

16 486.125 Refusal, revocation, or suspension of license;
17 administrative fines and other disciplinary measures.--

18 (2) The board may enter an order denying licensure or
19 imposing any of the penalties in s. 456.072(2) against any
20 applicant for licensure or licensee who is found guilty of
21 violating any provision of subsection (1) of this section or
22 who is found guilty of violating any provision of s.
23 456.072(1).

24 Section 28. For the purpose of incorporating the
25 amendment to section 456.072, Florida Statutes, in references
26 thereto, subsection (2) of section 490.009, Florida Statutes,
27 is reenacted to read:

28 490.009 Discipline.--

29 (2) The department, or in the case of psychologists,
30 the board, may enter an order denying licensure or imposing
31 any of the penalties in s. 456.072(2) against any applicant

1 for licensure or licensee who is found guilty of violating any
2 provision of subsection (1) of this section or who is found
3 guilty of violating any provision of s. 456.072(1).

4 Section 29. For the purpose of incorporating the
5 amendment to section 456.072, Florida Statutes, in references
6 thereto, subsection (2) of section 491.009, Florida Statutes,
7 is reenacted to read:

8 491.009 Discipline.--

9 (2) The department, or, in the case of psychologists,
10 the board, may enter an order denying licensure or imposing
11 any of the penalties in s. 456.072(2) against any applicant
12 for licensure or licensee who is found guilty of violating any
13 provision of subsection (1) of this section or who is found
14 guilty of violating any provision of s. 456.072(1).

15 Section 30. Paragraph (d) is added to subsection (2)
16 of section 458.309, Florida Statutes, to read:

17 458.309 Authority to make rules.--

18 (2)

19 (d) In any rules that the board adopts relating to
20 board certification, "board" shall mean a board approved by
21 either the American Board of Medical Specialties or the Board
22 of Medicine or by both boards. The Board of Medicine may only
23 approve those specialty boards that provide evidence that
24 their criteria for board certification is at least equivalent
25 to the criteria established for those specialities by the
26 American Board of Medical Specialties.

27 Section 31. Paragraph (d) of subsection (1) of section
28 458.331, Florida Statutes, is amended to read:

29 458.331 Grounds for disciplinary action; action by the
30 board and department.--

31

