

By Senator Jones

13-1198-03

1 A bill to be entitled
2 An act relating to health care; providing
3 legislative findings and intent; amending s.
4 456.72, F.S.; providing that a practitioner's
5 failure to disclose training constitutes
6 grounds for disciplinary action; providing an
7 exception; amending s. 458.309, F.S.;
8 establishing criteria applicable to boards that
9 certify practitioners; amending s. 458.331,
10 F.S.; providing requirements for advertising by
11 physicians licensed under ch. 458, F.S.;
12 amending s. 458.3312, F.S.; providing
13 prerequisites for claiming to be a
14 board-certified specialist; providing an
15 effective date.

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

18
19 Section 1. Legislative findings; intent.--The
20 Legislature finds that there is a compelling state interest in
21 having patients informed of the credentials of the health care
22 practitioners who treat them and in protecting the public from
23 misleading health care advertising. The Legislature further
24 finds that the subjects of licensure and board certification
25 of health care practitioners can be extremely confusing for
26 patients and that a health care practitioner could easily
27 mislead patients into believing that the practitioner is
28 better qualified than other practitioners simply by creating a
29 sham designation or a sham certification body. Moreover, the
30 Legislature finds that the American Council on Graduate
31 Medical Education and the American Board of Medical

1 Specialties and its component boards are universally
2 recognized as the preeminent certification organizations that
3 promote and uphold the highest standards in medical
4 specialization. Therefore, the Legislature intends that
5 patients be protected from this identifiable harm in the most
6 direct and effective manner, by ensuring that patients have a
7 standard and easily understood method of recognizing
8 legitimate certification bodies and that patients be informed
9 of the training of their health care practitioners.

10 Section 2. Present paragraphs (t)-(cc) of
11 subsection(1) of section 456.072, Florida Statutes, are
12 redesignated as paragraphs (v)-(ee), respectively, and new
13 paragraphs (t) and (u) are added to that subsection, to read:

14 456.072 Grounds for discipline; penalties;
15 enforcement.--

16 (1) The following acts shall constitute grounds for
17 which the disciplinary actions specified in subsection (2) may
18 be taken:

19 (t) In any advertisement for health care services, and
20 no later than at the inception of the professional
21 relationship, failing to inform the patient in writing, at a
22 minimum, as to the type of license under which the
23 practitioner is operating. This paragraph does not apply to a
24 practitioner while that practitioner is providing services in
25 a facility licensed under chapter 395 or chapter 400.

26 (u) When providing a professional opinion, regardless
27 of the setting in which the opinion is provided, failing to
28 inform the patient, at a minimum, as to the type of license
29 under which the practitioner is operating and the scope of the
30 practitioner's practice. This paragraph does not apply to a

31

1 practitioner while that practitioner is providing services in
2 a facility licensed under chapter 395 or chapter 400.

3 Section 3. Paragraph (d) is added to subsection (2) of
4 section 458.309, Florida Statutes, to read:

5 458.309 Rulemaking authority.--

6 (2)

7 (d) In any rules relating to board certification which
8 the board adopts, the term "board" must mean a board approved
9 by the American Board of Medical Specialties or by the Florida
10 Board of Medicine, or both. The Board of Medicine may approve
11 only those specialty boards that require the successful
12 completion of a residency approved by the American Council on
13 Graduate Medical Education and provide evidence that their
14 criteria for board certification are at least equivalent to
15 those established by the American Board of Medical
16 Specialties.

17 Section 4. Paragraph (d) of subsection (1) of section
18 458.331, Florida Statutes, is amended to read:

19 458.331 Grounds for disciplinary action; action by the
20 board and department.--

21 (1) The following acts constitute grounds for denial
22 of a license or disciplinary action, as specified in s.
23 456.072(2):

24 (d) False, deceptive, or misleading advertising,
25 including, but not limited to, the dissemination of any
26 advertisement or informed consent form that does not include,
27 at a minimum, whether or not the physician is board certified
28 by a specialty board approved by the American Board of Medical
29 Specialties and the name of any such board that has awarded
30 certification. In addition, a physician may disclose only the
31 postgraduate education that he or she has undertaken in a

1 program approved by the American Council on Graduate Medical
2 Education and whether he or she completed the program.

3 Section 5. Section 458.3312, Florida Statutes, is
4 amended to read:

5 458.3312 Specialties.--A physician licensed under this
6 chapter may not hold himself or herself out as a
7 board-certified specialist unless the physician has
8 successfully completed a residency program in that specialty,
9 which program is accredited by the American Council on
10 Graduate Medical Education, and has received formal
11 recognition as a specialist from a specialty board of the
12 American Board of Medical Specialties or other recognizing
13 agency approved by the board. However, a physician may
14 indicate the services offered and may state that his or her
15 practice is limited to one or more types of services when this
16 accurately reflects the scope of practice of the physician.

17 Section 6. This act shall take effect July 1, 2003.

18 *****

19
20 SENATE SUMMARY

21 States the legislative intent to assure that patients are
22 informed about the credentials of health care
23 practitioners. Provides that a practitioner's failure to
24 disclose his or her training constitutes grounds for
25 disciplinary action. Establishes criteria applicable to
26 boards that certify practitioners. Provides requirements
27 for advertising by medical doctors. Provides
28 prerequisites for claiming to be a board-certified
29 specialist.
30
31