



HB 0507

2003

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



HB 0507

2003

31 incorporate the amendment to s. 456.072, F.S., in
32 references thereto; amending s. 458.309, F.S.; providing
33 requirements for approval of boards granting medical
34 specialty certification; amending s. 458.331, F.S.;
35 expanding the disciplinary ground of false, deceptive, or
36 misleading advertising applicable to physicians to include
37 failure to disclose information relating to medical
38 specialty and postgraduate education in advertisements and
39 informed consent forms; providing penalties; amending s.
40 458.3312, F.S.; requiring physicians who hold themselves
41 out as board-certified specialists to have successfully
42 completed a specified residency program; providing an
43 effective date.

44
45 WHEREAS, the Legislature finds that there exists a
46 compelling state interest that patients be informed of the
47 credentials of the health care practitioners who treat them and
48 that the public be protected from misleading health care
49 advertising, and

50 WHEREAS, the Legislature further finds that the areas of
51 practice licensure and board certification can be extremely
52 confusing for patients and that practitioners could easily
53 mislead patients into believing that the practitioner is better
54 qualified than other practitioners simply by creating a sham
55 designation or a sham certification body, and

56 WHEREAS, the Legislature further finds that the American
57 Council on Graduate Medical Education and the American Board of
58 Medical Specialties and its component boards are universally
59 recognized as the preeminent certification organizations that
60 promote and uphold the highest standards in medical



HB 0507

2003

61 specialization, and

62 WHEREAS, the Legislature therefore determines that the most
 63 direct and effective manner in which to protect patients from
 64 this identifiable harm is to ensure that patients have a
 65 standard and easily understood method of recognizing legitimate
 66 certification bodies and that patients be informed of the
 67 training of their health care practitioners, NOW, THEREFORE,

68
 69 Be It Enacted by the Legislature of the State of Florida:

70
 71 Section 1. Paragraph (cc) of subsection (1) of section
 72 456.072, Florida Statutes, is redesignated as paragraph (ee),
 73 and new paragraphs (cc) and (dd) are added to said subsection to
 74 read:

75 456.072 Grounds for discipline; penalties; enforcement.--

76 (1) The following acts shall constitute grounds for which
 77 the disciplinary actions specified in subsection (2) may be
 78 taken:

79 (cc) In any advertisement for health care services, and no
 80 later than at the time of initiation of a professional
 81 relationship with a patient, failing to provide, at a minimum,
 82 the type of license under which the health care practitioner is
 83 operating. This paragraph does not apply to health care
 84 practitioners while they are providing services in facilities
 85 licensed pursuant to chapter 395 or chapter 400.

86 (dd) When providing a professional opinion, regardless of
 87 setting, failing to provide, at a minimum, the type of license
 88 under which the health care practitioner is operating and the
 89 scope of the health care practitioner's practice. This paragraph
 90 does not apply to health care practitioners while they are



HB 0507

2003

91 providing services in facilities licensed pursuant to chapter
 92 395 or chapter 400.

93 Section 2. For the purpose of incorporating the amendment
 94 to section 456.072, Florida Statutes, in references thereto,
 95 subsection (2) of section 457.109, Florida Statutes, is
 96 reenacted to read:

97 457.109 Disciplinary actions; grounds; action by the
 98 board.--

99 (2) The board may enter an order denying licensure or
 100 imposing any of the penalties in s. 456.072(2) against any
 101 applicant for licensure or licensee who is found guilty of
 102 violating any provision of subsection (1) of this section or who
 103 is found guilty of violating any provision of s. 456.072(1).

104 Section 3. For the purpose of incorporating the amendment
 105 to section 456.072, Florida Statutes, in a reference thereto,
 106 subsection (2) of section 458.3135, Florida Statutes, is
 107 reenacted to read:

108 458.3135 Temporary certificate for visiting physicians to
 109 practice in approved cancer centers.--

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

113 (a) Is a graduate of an accredited medical school or its
 114 equivalent, or is a graduate of a foreign medical school listed
 115 with the World Health Organization;

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

118 (c) Has completed the application form adopted by the
 119 board and remitted a nonrefundable application fee not to exceed
 120 \$300;



HB 0507

2003

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

124 (e) Meets the financial responsibility requirements of s.
125 458.320; and

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

128 Section 4. For the purpose of incorporating the amendment
129 to section 456.072, Florida Statutes, in references thereto,
130 subsection (2) of section 458.331, Florida Statutes, is
131 reenacted to read:

132 458.331 Grounds for disciplinary action; action by the
133 board and department.--

134 (2) The board may enter an order denying licensure or
135 imposing any of the penalties in s. 456.072(2) against any
136 applicant for licensure or licensee who is found guilty of
137 violating any provision of subsection (1) of this section or who
138 is found guilty of violating any provision of s. 456.072(1). In
139 determining what action is appropriate, the board must first
140 consider what sanctions are necessary to protect the public or
141 to compensate the patient. Only after those sanctions have been
142 imposed may the disciplining authority consider and include in
143 the order requirements designed to rehabilitate the physician.
144 All costs associated with compliance with orders issued under
145 this subsection are the obligation of the physician.

146 Section 5. For the purpose of incorporating the amendment
147 to section 456.072, Florida Statutes, in references thereto,
148 subsection (2) of section 459.015, Florida Statutes, is
149 reenacted to read:



HB 0507

2003

150 459.015 Grounds for disciplinary action; action by the
 151 board and department.--

152 (2) The board may enter an order denying licensure or
 153 imposing any of the penalties in s. 456.072(2) against any
 154 applicant for licensure or licensee who is found guilty of
 155 violating any provision of subsection (1) of this section or who
 156 is found guilty of violating any provision of s. 456.072(1). In
 157 determining what action is appropriate, the board must first
 158 consider what sanctions are necessary to protect the public or
 159 to compensate the patient. Only after those sanctions have been
 160 imposed may the disciplining authority consider and include in
 161 the order requirements designed to rehabilitate the physician.
 162 All costs associated with compliance with orders issued under
 163 this subsection are the obligation of the physician.

164 Section 6. For the purpose of incorporating the amendment
 165 to section 456.072, Florida Statutes, in references thereto,
 166 subsection (2) of section 460.413, Florida Statutes, is
 167 reenacted to read:

168 460.413 Grounds for disciplinary action; action by board
 169 or department.--

170 (2) The board may enter an order denying licensure or
 171 imposing any of the penalties in s. 456.072(2) against any
 172 applicant for licensure or licensee who is found guilty of
 173 violating any provision of subsection (1) of this section or who
 174 is found guilty of violating any provision of s. 456.072(1). In
 175 determining what action is appropriate, the board must first
 176 consider what sanctions are necessary to protect the public or
 177 to compensate the patient. Only after those sanctions have been
 178 imposed may the disciplining authority consider and include in
 179 the order requirements designed to rehabilitate the chiropractic



HB 0507

2003

180 physician. All costs associated with compliance with orders
 181 issued under this subsection are the obligation of the
 182 chiropractic physician.

183 Section 7. For the purpose of incorporating the amendment
 184 to section 456.072, Florida Statutes, in references thereto,
 185 subsection (2) of section 461.013, Florida Statutes, is
 186 reenacted to read:

187 461.013 Grounds for disciplinary action; action by the
 188 board; investigations by department.--

189 (2) The board may enter an order denying licensure or
 190 imposing any of the penalties in s. 456.072(2) against any
 191 applicant for licensure or licensee who is found guilty of
 192 violating any provision of subsection (1) of this section or who
 193 is found guilty of violating any provision of s. 456.072(1).

194 Section 8. For the purpose of incorporating the amendment
 195 to section 456.072, Florida Statutes, in references thereto,
 196 subsection (2) of section 462.14, Florida Statutes, is reenacted
 197 to read:

198 462.14 Grounds for disciplinary action; action by the
 199 department.--

200 (2) The department may enter an order denying licensure or
 201 imposing any of the penalties in s. 456.072(2) against any
 202 applicant for licensure or licensee who is found guilty of
 203 violating any provision of subsection (1) of this section or who
 204 is found guilty of violating any provision of s. 456.072(1).

205 Section 9. For the purpose of incorporating the amendment
 206 to section 456.072, Florida Statutes, in references thereto,
 207 subsection (2) of section 463.016, Florida Statutes, is
 208 reenacted to read:



HB 0507

2003

209 463.016 Grounds for disciplinary action; action by the
 210 board.--

211 (2) The board may enter an order imposing any of the
 212 penalties in s. 456.072(2) against any licensee who is found
 213 guilty of violating any provision of subsection (1) of this
 214 section or who is found guilty of violating any provision of s.
 215 456.072(1).

216 Section 10. For the purpose of incorporating the amendment
 217 to section 456.072, Florida Statutes, in references thereto,
 218 subsection (2) of section 464.018, Florida Statutes, is
 219 reenacted to read:

220 464.018 Disciplinary actions.--

221 (2) The board may enter an order denying licensure or
 222 imposing any of the penalties in s. 456.072(2) against any
 223 applicant for licensure or licensee who is found guilty of
 224 violating any provision of subsection (1) of this section or who
 225 is found guilty of violating any provision of s. 456.072(1).

226 Section 11. For the purpose of incorporating the amendment
 227 to section 456.072, Florida Statutes, in references thereto,
 228 subsection (2) of section 465.016, Florida Statutes, is
 229 reenacted to read:

230 465.016 Disciplinary actions.--

231 (2) The board may enter an order denying licensure or
 232 imposing any of the penalties in s. 456.072(2) against any
 233 applicant for licensure or licensee who is found guilty of
 234 violating any provision of subsection (1) of this section or who
 235 is found guilty of violating any provision of s. 456.072(1).

236 Section 12. For the purpose of incorporating the amendment
 237 to section 456.072, Florida Statutes, in references thereto,



HB 0507

2003

238 subsection (2) of section 466.028, Florida Statutes, is
 239 reenacted to read:

240 466.028 Grounds for disciplinary action; action by the
 241 board.--

242 (2) The board may enter an order denying licensure or
 243 imposing any of the penalties in s. 456.072(2) against any
 244 applicant for licensure or licensee who is found guilty of
 245 violating any provision of subsection (1) of this section or who
 246 is found guilty of violating any provision of s. 456.072(1).

247 Section 13. For the purpose of incorporating the amendment
 248 to section 456.072, Florida Statutes, in references thereto,
 249 subsection (2) of section 467.203, Florida Statutes, is
 250 reenacted to read:

251 467.203 Disciplinary actions; penalties.--

252 (2) The department may enter an order denying licensure or
 253 imposing any of the penalties in s. 456.072(2) against any
 254 applicant for licensure or licensee who is found guilty of
 255 violating any provision of subsection (1) of this section or who
 256 is found guilty of violating any provision of s. 456.072(1).

257 Section 14. For the purpose of incorporating the amendment
 258 to section 456.072, Florida Statutes, in references thereto,
 259 subsection (2) of section 468.1295, Florida Statutes, is
 260 reenacted to read:

261 468.1295 Disciplinary proceedings.--

262 (2) The board may enter an order denying licensure or
 263 imposing any of the penalties in s. 456.072(2) against any
 264 applicant for licensure or licensee who is found guilty of
 265 violating any provision of subsection (1) of this section or who
 266 is found guilty of violating any provision of s. 456.072(1).



HB 0507

2003

267 Section 15. For the purpose of incorporating the amendment
 268 to section 456.072, Florida Statutes, in references thereto,
 269 paragraph (a) of subsection (1) and subsection (2) of section
 270 468.1755, Florida Statutes, are reenacted to read:

271 468.1755 Disciplinary proceedings.--

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

274 (a) Violation of any provision of s. 456.072(1) or s.
 275 468.1745(1).

276 (2) The board may enter an order denying licensure or
 277 imposing any of the penalties in s. 456.072(2) against any
 278 applicant for licensure or licensee who is found guilty of
 279 violating any provision of subsection (1) of this section or who
 280 is found guilty of violating any provision of s. 456.072(1).

281 Section 16. For the purpose of incorporating the amendment
 282 to section 456.072, Florida Statutes, in references thereto,
 283 subsection (2) of section 468.217, Florida Statutes, is
 284 reenacted to read:

285 468.217 Denial of or refusal to renew license; suspension
 286 and revocation of license and other disciplinary measures.--

287 (2) The board may enter an order denying licensure or
 288 imposing any of the penalties in s. 456.072(2) against any
 289 applicant for licensure or licensee who is found guilty of
 290 violating any provision of subsection (1) of this section or who
 291 is found guilty of violating any provision of s. 456.072(1).

292 Section 17. For the purpose of incorporating the amendment
 293 to section 456.072, Florida Statutes, in references thereto,
 294 subsection (2) of section 468.365, Florida Statutes, is
 295 reenacted to read:

296 468.365 Disciplinary grounds and actions.--



HB 0507

2003

297 (2) The board may enter an order denying licensure or
298 imposing any of the penalties in s. 456.072(2) against any
299 applicant for licensure or licensee who is found guilty of
300 violating any provision of subsection (1) of this section or who
301 is found guilty of violating any provision of s. 456.072(1).

302 Section 18. For the purpose of incorporating the amendment
303 to section 456.072, Florida Statutes, in references thereto,
304 subsection (2) of section 468.518, Florida Statutes, is
305 reenacted to read:

306 468.518 Grounds for disciplinary action.--

307 (2) The board may enter an order denying licensure or
308 imposing any of the penalties in s. 456.072(2) against any
309 applicant for licensure or licensee who is found guilty of
310 violating any provision of subsection (1) of this section or who
311 is found guilty of violating any provision of s. 456.072(1).

312 Section 19. For the purpose of incorporating the amendment
313 to section 456.072, Florida Statutes, in references thereto,
314 subsection (2) of section 468.719, Florida Statutes, is
315 reenacted to read:

316 468.719 Disciplinary actions.--

317 (2) The board may enter an order denying licensure or
318 imposing any of the penalties in s. 456.072(2) against any
319 applicant for licensure or licensee who is found guilty of
320 violating any provision of subsection (1) of this section or who
321 is found guilty of violating any provision of s. 456.072(1).

322 Section 20. For the purpose of incorporating the amendment
323 to section 456.072, Florida Statutes, in references thereto,
324 subsection (2) of section 468.811, Florida Statutes, is
325 reenacted to read:

326 468.811 Disciplinary proceedings.--



HB 0507

2003

327 (2) The board may enter an order denying licensure or
 328 imposing any of the penalties in s. 456.072(2) against any
 329 applicant for licensure or licensee who is found guilty of
 330 violating any provision of subsection (1) of this section or who
 331 is found guilty of violating any provision of s. 456.072(1).

332 Section 21. For the purpose of incorporating the amendment
 333 to section 456.072, Florida Statutes, in references thereto,
 334 subsection (2) of section 478.52, Florida Statutes, is reenacted
 335 to read:

336 478.52 Disciplinary proceedings.--

337 (2) The board may enter an order denying licensure or
 338 imposing any of the penalties in s. 456.072(2) against any
 339 applicant for licensure or licensee who is found guilty of
 340 violating any provision of subsection (1) of this section or who
 341 is found guilty of violating any provision of s. 456.072(1).

342 Section 22. For the purpose of incorporating the amendment
 343 to section 456.072, Florida Statutes, in references thereto,
 344 subsection (2) of section 480.046, Florida Statutes, is
 345 reenacted to read:

346 480.046 Grounds for disciplinary action by the board.--

347 (2) The board may enter an order denying licensure or
 348 imposing any of the penalties in s. 456.072(2) against any
 349 applicant for licensure or licensee who is found guilty of
 350 violating any provision of subsection (1) of this section or who
 351 is found guilty of violating any provision of s. 456.072(1).

352 Section 23. For the purpose of incorporating the amendment
 353 to section 456.072, Florida Statutes, in references thereto,
 354 subsection (2) of section 483.825, Florida Statutes, is
 355 reenacted to read:

356 483.825 Grounds for disciplinary action.--



HB 0507

2003

357 (2) The board may enter an order denying licensure or
 358 imposing any of the penalties in s. 456.072(2) against any
 359 applicant for licensure or licensee who is found guilty of
 360 violating any provision of subsection (1) of this section or who
 361 is found guilty of violating any provision of s. 456.072(1).

362 Section 24. For the purpose of incorporating the amendment
 363 to section 456.072, Florida Statutes, in references thereto,
 364 paragraph (h) of subsection (6) of section 483.901, Florida
 365 Statutes, is reenacted to read:

366 483.901 Medical physicists; definitions; licensure.--

367 (6) LICENSE REQUIRED.-- An individual may not engage in
 368 the practice of medical physics, including the specialties of
 369 diagnostic radiological physics, therapeutic radiological
 370 physics, medical nuclear radiological physics, or medical health
 371 physics, without a license issued by the department for the
 372 appropriate specialty.

373 (h) The department may enter an order denying licensure or
 374 imposing any of the penalties in s. 456.072(2) against any
 375 applicant for licensure or licensee who is found guilty of
 376 violating any provision of subsection (1) of this section or who
 377 is found guilty of violating any provision of s. 456.072(1).

378 Section 25. For the purpose of incorporating the amendment
 379 to section 456.072, Florida Statutes, in references thereto,
 380 subsection (2) of section 484.014, Florida Statutes, is
 381 reenacted to read:

382 484.014 Disciplinary actions.--

383 (2) The board may enter an order denying licensure or
 384 imposing any of the penalties in s. 456.072(2) against any
 385 applicant for licensure or licensee who is found guilty of



HB 0507

2003

386 violating any provision of subsection (1) of this section or who
 387 is found guilty of violating any provision of s. 456.072(1).

388 Section 26. For the purpose of incorporating the amendment
 389 to section 456.072, Florida Statutes, in references thereto,
 390 paragraph (a) of subsection (1) and paragraph (a) of subsection
 391 (2) of section 484.056, Florida Statutes, are reenacted to read:

392 484.056 Disciplinary proceedings.--

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

395 (a) Violation of any provision of s. 456.072(1), s.
 396 484.0512, or s. 484.053.

397 (2)(a) The board may enter an order denying licensure or
 398 imposing any of the penalties in s. 456.072(2) against any
 399 applicant for licensure or licensee who is found guilty of
 400 violating any provision of subsection (1) of this section or who
 401 is found guilty of violating any provision of s. 456.072(1).

402 Section 27. For the purpose of incorporating the amendment
 403 to section 456.072, Florida Statutes, in references thereto,
 404 subsection (2) of section 486.125, Florida Statutes, is
 405 reenacted to read:

406 486.125 Refusal, revocation, or suspension of license;
 407 administrative fines and other disciplinary measures.--

408 (2) The board may enter an order denying licensure or
 409 imposing any of the penalties in s. 456.072(2) against any
 410 applicant for licensure or licensee who is found guilty of
 411 violating any provision of subsection (1) of this section or who
 412 is found guilty of violating any provision of s. 456.072(1).

413 Section 28. For the purpose of incorporating the amendment
 414 to section 456.072, Florida Statutes, in references thereto,



HB 0507

2003

415 subsection (2) of section 490.009, Florida Statutes, is
 416 reenacted to read:

417 490.009 Discipline.--

418 (2) The department, or in the case of psychologists, the
 419 board, may enter an order denying licensure or imposing any of
 420 the penalties in s. 456.072(2) against any applicant for
 421 licensure or licensee who is found guilty of violating any
 422 provision of subsection (1) of this section or who is found
 423 guilty of violating any provision of s. 456.072(1).

424 Section 29. For the purpose of incorporating the amendment
 425 to section 456.072, Florida Statutes, in references thereto,
 426 subsection (2) of section 491.009, Florida Statutes, is
 427 reenacted to read:

428 491.009 Discipline.--

429 (2) The department, or, in the case of psychologists, the
 430 board, may enter an order denying licensure or imposing any of
 431 the penalties in s. 456.072(2) against any applicant for
 432 licensure or licensee who is found guilty of violating any
 433 provision of subsection (1) of this section or who is found
 434 guilty of violating any provision of s. 456.072(1).

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

437 458.309 Rulemaking authority.--

438 (2)

439 (d) In any rules that the board adopts relating to board
 440 certification, "board" shall mean a board approved by the
 441 American Board of Medical Specialties or the Board of Medicine.
 442 However, the Board of Medicine may only approve those specialty
 443 boards that require the successful completion of a residency
 444 program approved by the American Council on Graduate Medical



HB 0507

2003

445 Education and provide evidence that their criteria for board
446 certification is at least equivalent to the criteria established
447 for their specialty by the American Board of Medical
448 Specialties.

449 Section 31. Paragraph (d) of subsection (1) of section
450 458.331, Florida Statutes, is amended to read:

451 458.331 Grounds for disciplinary action; action by the
452 board and department.--

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

455 (d) False, deceptive, or misleading advertising, which
456 shall include, but not be limited to, the dissemination of any
457 advertisement or informed consent form that does not include, at
458 a minimum, whether or not the physician is board certified by a
459 specialty board approved by the American Board of Medical
460 Specialties or the Board of Medicine and the name of any such
461 board that has awarded certification. However, a physician may
462 only disclose postgraduate education that was undertaken in
463 programs approved by the American Council on Graduate Medical
464 Education and must disclose whether the program was completed.

465 Section 32. Section 458.3312, Florida Statutes, is amended
466 to read:

467 458.3312 Specialties.-- A physician licensed under this
468 chapter may not hold himself or herself out as a board-certified
469 specialist unless the physician has successfully completed a
470 residency program in that specialty accredited by the American
471 Council on Graduate Medical Education and has received formal
472 recognition as a specialist from a specialty board of the
473 American Board of Medical Specialties or other recognizing
474 agency approved by the board. However, a physician may indicate



HB 0507

2003

475 the services offered and may state that his or her practice is
476 limited to one or more types of services when this accurately
477 reflects the scope of practice of the physician.

478 Section 33. This act shall take effect July 1, 2003.