

By the Committees on Rules; and Health Policy; and Senator Harrell

595-04463-20

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1 A bill to be entitled
2 An act relating to prohibited acts by health care
3 practitioners; amending s. 456.072, F.S.; prohibiting
4 specified acts by health care practitioners relating
5 to specialty designations; authorizing the Department
6 of Health to enforce compliance with the act;
7 authorizing the department to take specified
8 disciplinary action against health care practitioners
9 in violation of the act; specifying applicable
10 administrative penalties; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Paragraphs (a) and (t) of subsection (1) and
15 subsection (2) of section 456.072, Florida Statutes, are amended
16 to read:

17 456.072 Grounds for discipline; penalties; enforcement.—

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

21 (a) Making misleading, deceptive, or fraudulent
22 representations in or related to the practice of the licensee's
23 profession or specialty designation. Use of the term
24 "anesthesiologist" is prohibited unless the practitioner is
25 licensed as a physician under chapter 458 or chapter 459 or as a
26 dentist under chapter 466, and use of the term "dermatologist"
27 is prohibited unless the practitioner is licensed as a physician
28 under chapter 458 or chapter 459.

29 (t) Failing to identify through written notice, which may

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30 include the wearing of a name tag, or orally to a patient the
31 type of license or specialty designation under which the
32 practitioner is practicing. Any advertisement for health care
33 services naming the practitioner must identify the type of
34 license the practitioner holds. This paragraph does not apply to
35 a practitioner while the practitioner is providing services in a
36 facility licensed under chapter 394, chapter 395, chapter 400,
37 or chapter 429. The department shall enforce this paragraph ~~Each~~
38 ~~board, or the department where there is no board, is authorized~~
39 ~~by rule to determine how its practitioners may comply with this~~
40 ~~disclosure requirement.~~

41 (2) (a) When the board, or the department when there is no
42 board, finds any person guilty of the grounds set forth in
43 subsection (1) or of any grounds set forth in the applicable
44 practice act, including conduct constituting a substantial
45 violation of subsection (1) or a violation of the applicable
46 practice act which occurred prior to obtaining a license, it may
47 enter an order imposing one or more of the following penalties:

48 1. ~~(a)~~ Refusal to certify, or to certify with restrictions,
49 an application for a license.

50 2. ~~(b)~~ Suspension or permanent revocation of a license.

51 3. ~~(c)~~ Restriction of practice or license, including, but
52 not limited to, restricting the licensee from practicing in
53 certain settings, restricting the licensee to work only under
54 designated conditions or in certain settings, restricting the
55 licensee from performing or providing designated clinical and
56 administrative services, restricting the licensee from
57 practicing more than a designated number of hours, or any other
58 restriction found to be necessary for the protection of the

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59 public health, safety, and welfare.

60 4.~~(d)~~ Imposition of an administrative fine not to exceed
61 \$10,000 for each count or separate offense. If the violation is
62 for fraud or making a false or fraudulent representation, the
63 board, or the department if there is no board, must impose a
64 fine of \$10,000 per count or offense.

65 5.~~(e)~~ Issuance of a reprimand or letter of concern.

66 6.~~(f)~~ Placement of the licensee on probation for a period
67 of time and subject to such conditions as the board, or the
68 department when there is no board, may specify. Those conditions
69 may include, but are not limited to, requiring the licensee to
70 undergo treatment, attend continuing education courses, submit
71 to be reexamined, work under the supervision of another
72 licensee, or satisfy any terms which are reasonably tailored to
73 the violations found.

74 7.~~(g)~~ Corrective action.

75 8.~~(h)~~ Imposition of an administrative fine in accordance
76 with s. 381.0261 for violations regarding patient rights.

77 9.~~(i)~~ Refund of fees billed and collected from the patient
78 or a third party on behalf of the patient.

79 10.~~(j)~~ Requirement that the practitioner undergo remedial
80 education.

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82 In determining what action is appropriate, the board, or
83 department when there is no board, must first consider what
84 sanctions are necessary to protect the public or to compensate
85 the patient. Only after those sanctions have been imposed may
86 the disciplining authority consider and include in the order
87 requirements designed to rehabilitate the practitioner. All

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88 costs associated with compliance with orders issued under this
89 subsection are the obligation of the practitioner.

90 (b)1. If the department finds that any licensed health care
91 practitioner has violated paragraph (1)(a), the department must
92 issue an emergency order to the practitioner to cease and desist
93 the use of such name, title, words, letter, abbreviations, or
94 insignia. The department shall send the emergency cease and
95 desist order to the practitioner by certified mail and e-mail to
96 the practitioner's physical address and e-mail address of record
97 on file with the department and to any other mailing address or
98 e-mail address through which the department believes the person
99 may be reached.

100 2. If the practitioner does not cease and desist his or her
101 actions in violation of paragraph (1)(a) immediately upon
102 receipt of the emergency cease and desist order, the department
103 must enter an order imposing any of the following penalties, or
104 a combination thereof, until the practitioner complies with the
105 cease and desist order:

- 106 a. A citation and a daily fine.
107 b. A reprimand or a letter of concern.
108 c. Suspension of license.

109 Section 2. This act shall take effect upon becoming a law.