

By Senator Rodrigues

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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.; subjecting
4 health care practitioners to discipline for making
5 misleading, deceptive, or fraudulent representations
6 related to their specialty designations; specifying
7 that only certain licensed health care practitioners
8 may use the terms "anesthesiologist" or
9 "dermatologist"; subjecting health care practitioners
10 to discipline for failing to provide written or oral
11 notice to patients of their specialty designation;
12 requiring the department, instead of applicable health
13 care practitioner boards, to enforce the written or
14 oral notice requirement; requiring the department to
15 issue emergency cease and desist orders to certain
16 persons under certain circumstances; providing
17 requirements for the notice of such emergency orders;
18 requiring the department to impose certain
19 administrative penalties if such persons do not
20 immediately comply with the emergency orders;
21 providing an effective date.

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

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25 Section 1. Paragraphs (a) and (t) of subsection (1) and
26 subsection (2) of section 456.072, Florida Statutes, are amended
27 to read:

28 456.072 Grounds for discipline; penalties; enforcement.—

29 (1) The following acts shall constitute grounds for which

27-01297-21

20211142__

30 the disciplinary actions specified in subsection (2) may be
31 taken:

32 (a) Making misleading, deceptive, or fraudulent
33 representations in or related to the practice of the licensee's
34 profession or specialty designation. The term "anesthesiologist"
35 may be used only if the practitioner is licensed as a physician
36 under chapter 458 or chapter 459 or as a dentist under chapter
37 466, and the term "dermatologist" may be used only if the
38 practitioner is licensed as a physician under chapter 458 or
39 chapter 459.

40 (t) Failing to identify through written notice, which may
41 include the wearing of a name tag, or orally to a patient the
42 type of license or specialty designation under which the
43 practitioner is practicing. Any advertisement for health care
44 services naming the practitioner must identify the type of
45 license the practitioner holds. This paragraph does not apply to
46 a practitioner while the practitioner is providing services in a
47 facility licensed under chapter 394, chapter 395, chapter 400,
48 or chapter 429. The department shall enforce this paragraph ~~Each~~
49 ~~board, or the department where there is no board, is authorized~~
50 ~~by rule to determine how its practitioners may comply with this~~
51 ~~disclosure requirement.~~

52 (2) (a) When the board, or the department when there is no
53 board, finds any person guilty of the grounds set forth in
54 subsection (1) or of any grounds set forth in the applicable
55 practice act, including conduct constituting a substantial
56 violation of subsection (1) or a violation of the applicable
57 practice act which occurred before ~~prior to~~ obtaining a license,
58 it may enter an order imposing one or more of the following

27-01297-21

20211142__

59 penalties:

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

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

63 3.~~(c)~~ Restriction of practice or license, including, but
64 not limited to, restricting the licensee from practicing in
65 certain settings, restricting the licensee to work only under
66 designated conditions or in certain settings, restricting the
67 licensee from performing or providing designated clinical and
68 administrative services, restricting the licensee from
69 practicing more than a designated number of hours, or any other
70 restriction found to be necessary for the protection of the
71 public health, safety, and welfare.

72 4.~~(d)~~ Imposition of an administrative fine not to exceed
73 \$10,000 for each count or separate offense. If the violation is
74 for fraud or making a false or fraudulent representation, the
75 board, or the department if there is no board, must impose a
76 fine of \$10,000 per count or offense.

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

78 6.~~(f)~~ Placement of the licensee on probation for a period
79 of time and subject to such conditions as the board, or the
80 department when there is no board, may specify. Those conditions
81 may include, but are not limited to, requiring the licensee to
82 undergo treatment, attend continuing education courses, submit
83 to be reexamined, work under the supervision of another
84 licensee, or satisfy any terms which are reasonably tailored to
85 the violations found.

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

87 8.~~(h)~~ Imposition of an administrative fine in accordance

27-01297-21

20211142__

88 with s. 381.0261 for violations regarding patient rights.

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

91 10.~~(j)~~ Requirement that the practitioner undergo remedial
92 education.

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94 In determining what action is appropriate, the board, or
95 department when there is no board, must first consider what
96 sanctions are necessary to protect the public or to compensate
97 the patient. Only after those sanctions have been imposed may
98 the disciplining authority consider and include in the order
99 requirements designed to rehabilitate the practitioner. All
100 costs associated with compliance with orders issued under this
101 subsection are the obligation of the practitioner.

102 (b)1. When the department finds that a person has violated
103 paragraph (1)(a), the department must issue an emergency order
104 to the person to cease and desist from using the name or title,
105 or any other words, letters, abbreviations, or insignia
106 indicating that he or she may practice under the specialty
107 designation. The department must send the emergency cease and
108 desist order to the person by certified mail and e-mail to the
109 person's physical address and e-mail address of record on file
110 with the department and to any other mailing address or e-mail
111 address through which the department believes the person may be
112 reached.

113 2. If the person does not cease and desist his or her
114 actions in violation of paragraph (1)(a) immediately upon
115 receipt of the emergency cease and desist order, the department
116 must enter an order imposing any of the following penalties, or

27-01297-21

20211142__

117 a combination thereof, until the person complies with the cease
118 and desist order:

119 a. A citation and a daily fine.

120 b. A reprimand or a letter of concern.

121 c. Suspension of license.

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