

By the Committee on Health Policy; and Senator Rodrigues

588-02989-21

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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.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
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

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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 under chapter  
36 458 or chapter 459 or as a dentist under chapter 466, and the  
37 term "dermatologist" may be used only if the practitioner is  
38 licensed under chapter 458 or chapter 459.

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

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

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

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

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

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

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

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

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

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

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

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

92  
93 In determining what action is appropriate, the board, or  
94 department when there is no board, must first consider what  
95 sanctions are necessary to protect the public or to compensate  
96 the patient. Only after those sanctions have been imposed may  
97 the disciplining authority consider and include in the order  
98 requirements designed to rehabilitate the practitioner. All  
99 costs associated with compliance with orders issued under this  
100 subsection are the obligation of the practitioner.

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

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

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117 and desist order:

118 a. A citation and a daily fine.

119 b. A reprimand or a letter of concern.

120 c. Suspension of license.

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