

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. The term "anesthesiologist"  
 24           may be used only if the practitioner is licensed as a physician  
 25           under chapter 458 or chapter 459 or as a dentist under chapter

26 | 466, and the term "dermatologist" may be used only if the  
 27 | practitioner is licensed as a physician under chapter 458 or  
 28 | chapter 459.

29 | (t) Failing to identify through written notice, which may  
 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 before ~~prior to~~ obtaining a license,  
 47 | it may enter an order imposing one or more of the following  
 48 | penalties:

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

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

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

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

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

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

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

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

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

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

82  
 83 In determining what action is appropriate, the board, or  
 84 department when there is no board, must first consider what  
 85 sanctions are necessary to protect the public or to compensate  
 86 the patient. Only after those sanctions have been imposed may  
 87 the disciplining authority consider and include in the order  
 88 requirements designed to rehabilitate the practitioner. All  
 89 costs associated with compliance with orders issued under this  
 90 subsection are the obligation of the practitioner.

91           (b)1. When the department finds that a person has violated  
 92 paragraph (1)(a), the department must issue an emergency order  
 93 to the person to cease and desist the use of the name or title,  
 94 or any other words, letters, abbreviations, or insignia  
 95 indicating that he or she may practice under the specialty  
 96 designation. The department must send the emergency cease and  
 97 desist order to the person by certified mail and e-mail to the  
 98 person's physical address and e-mail address of record on file  
 99 with the department and to any other mailing address or e-mail  
 100 address through which the department believes the person may be

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101 | reached.

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

108 |       a. A citation and a daily fine.

109 |       b. A reprimand or a letter of concern.

110 |       c. Suspension of license.

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