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LEGISLATURE OF THE STATE OF IDAHO

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Sixty-First Legislature

First Regular Session - 2011

IN THE \_\_\_\_\_

\_\_\_\_\_ BILL NO. \_\_\_\_\_

BY \_\_\_\_\_ COMMITTEE

AN ACT

RELATING TO HEALTH CARE; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION THERETO OF A NEW CHAPTER 17, TITLE 48, IDAHO CODE, TO SET FORTH A SHORT TITLE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT, TO PROVIDE DEFINITIONS, TO PROVIDE REQUIREMENTS FOR HEALTH CARE PRACTITIONER TRANSPARENCY, TO PROVIDE FOR VIOLATIONS AND ENFORCEMENT AND TO PROVIDE FOR AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 48, Idaho Code, and to read as follows:

CHAPTER 17

HEALTH CARE PROFESSIONAL TRANSPARENCY ACT

48-1701. Short Title. This act shall be known and may be cited as the "Health Care Professional Transparency Act."

48-1702. Statement of Legislative Intent. The Legislature of the State of Idaho hereby finds and declares that:

(1) There are a multitude of professional degrees using the term "doctor," including Medical Doctor (MD); Doctor of Osteopathic Medicine (DO); Doctor of Dental Surgery (DDS); Doctor of Podiatric Medicine (DPM); Doctor of Optometry (OD); Doctor of Chiropractic (DC); Naturopathic Doctor (ND); Doctor of Nursing Practice (DNP) and other designations which may be used by health care practitioners.

(2) There are widespread differences in the training and qualifications required to earn the professional degrees described in and subject to this Act. These differences often concern the training and skills necessary to correctly detect, diagnose, prevent and treat serious health care conditions.

(3) There is a compelling state interest in patients being promptly and clearly informed of the training and qualifications of the health care practitioners who provide health care services.

(4) There is a compelling state interest in the public being protected from potentially misleading and deceptive health care

advertising that might cause patients to have inappropriate expectations regarding their treatment and outcome.

48-1703. Definitions. For the purposes of this Act:

(1) "Advertisement" means any communication or statement, whether printed or electronic, that names the health care practitioner in relation to his or her practice, profession, or institution in which the individual provides health care services. This includes business cards, letterhead, patient brochures, e-mail, Internet, audio and video, billboards, signage, outdoor advertising and any other communication or statement used in the course of business.

(2) "Deceptive" or "misleading" means any advertisement or affirmative communication or representation that miss-states, falsely describes, or falsely details the health care practitioner's profession, education, board certification or licensure or constitutes an offer to provide health care services outside of the practitioner's licensed scope of practice.

(3) "Health care practitioner" means any physician or other person licensed or otherwise authorized to furnish health care services.

(4) "Licensee" means a health care practitioner who holds an active license with the licensing board governing his or her practice in this State.

48-1704. Health Care Practitioner Transparency Requirements.

(1) An advertisement for health care services that names a health care practitioner must identify the type of license held by the practitioner. The advertisement shall not contain deceptive or misleading information.

(2) A health care practitioner providing health care services in this state shall do one (1) of the following:

(a) If the health care practitioner wears an ID badge, it shall include the practitioner's name and the type of license (e.g. "medical doctor", "psychologist", "nurse practitioner", "podiatrist") the practitioner holds. The name tag shall be of sufficient size and be worn in a conspicuous manner so as to be visible and apparent; or

(b) The health care practitioner shall display in his or her office a writing that clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size so as to be visible and apparent to all current and prospective patients.

(3) A health care practitioner who practices in more than one office shall be required to comply with these requirements in each practice setting.

(4) Health care practitioners working in non-patient care settings, and who do not have any direct patient care interactions, are not subject to the provisions of subsection 2 of this section.

48-1705. Violations and Enforcement.

(1) Failure to comply with any provision of this Section shall constitute a violation under this Act.

(2) Any health care practitioner who violates any provision of

this Act as determined by the licensing board governing the practitioner's license is guilty of unprofessional conduct and subject to disciplinary action under the appropriate licensure provisions governing the respective health care practitioner.

(3) Notwithstanding the imposition of any penalty, a professional licensing board or other administrative agency with jurisdiction may seek an injunction or other legal means as appropriate against a person or entity violating this Act.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect on and after January 1, 2012.