



January 28, 2022

SENATE BILL No. 239

DIGEST OF SB 239 (Updated January 26, 2022 11:33 am - DI 104)

Citations Affected: IC 25-1; IC 25-22.5.

Synopsis: Practitioner identification and advertising. Provides that, beginning January 1, 2023, certain practitioners are subject to disciplinary sanctions if the practitioner communicates or disseminates to the general public an advertisement that includes deceptive or misleading information or does not prominently state the type of license held by the practitioner. Establishes certain exceptions. Provides, for purposes of the law prohibiting the unlawful practice of medicine or osteopathic medicine, that "the practice of medicine or osteopathic medicine" includes attaching to an individual's name additional terms or other specified words that identify a member of a medical specialty. States that a practitioner is not prevented from using the name or title of the practitioner's profession.

Effective: July 1, 2022.

**Boehnlein, Brown L, Melton,
Leising, Becker, Yoder, Ford J.D.**

January 10, 2022, read first time and referred to Committee on Health and Provider Services.
January 27, 2022, amended, reported favorably — Do Pass.

SB 239—LS 6908/DI 77



January 28, 2022

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 239

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-1-10.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:

4 **Chapter 10.3. Health Care Provider Advertising**
5 **Sec. 1. This chapter does not apply to an advertisement**
6 **communicated or disseminated before January 1, 2023. However,**
7 **an advertisement that was prepared or created before January 1,**
8 **2023, may not be disseminated after December 31, 2022, unless the**
9 **advertisement complies with the requirements set forth in section**
10 **7 of this chapter.**

11 **Sec. 2. (a) As used in this chapter, "advertisement" means any**
12 **printed, electronic, or oral statement:**

13 **(1) that is communicated or disseminated to the general**
14 **public; and**

15 **(2) that:**
16 **(A) is intended to encourage a person to use a**
17 **practitioner's professional services; or**

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1 (B) for commercial purposes, names a practitioner in
2 connection with the practice, profession, or institution in
3 which the practitioner is employed, volunteers, or provides
4 health care services.

5 (b) The term includes the communication or dissemination as
6 described in subsection (a) of any of the following:

- 7 (1) A business card.
- 8 (2) Letterhead.
- 9 (3) A patient brochure.
- 10 (4) A pamphlet.
- 11 (5) A newsletter.
- 12 (6) A telephone directory.
- 13 (7) Electronic mail.
- 14 (8) An Internet web site.
- 15 (9) A physician data base.
- 16 (10) An audio or video transmission.
- 17 (11) A direct patient solicitation.
- 18 (12) A billboard.
- 19 (13) A newspaper or magazine.
- 20 (14) Any other communication or statement used in the course
21 of business for the purpose of promoting services offered to
22 the public.

23 (c) The term does not include the following:

- 24 (1) Office building placards.
- 25 (2) Exterior building signage that was in place before January
26 1, 2023.

27 Sec. 3. As used in this chapter, "deceptive or misleading
28 information" means any information that misrepresents or falsely
29 describes a practitioner's:

- 30 (1) profession;
- 31 (2) skills;
- 32 (3) training;
- 33 (4) expertise;
- 34 (5) education;
- 35 (6) board certification; or
- 36 (7) license.

37 Sec. 4. As used in this chapter, "license" includes a license,
38 certificate, registration, or permit, including:

- 39 (1) an unlimited license, certificate, or registration;
- 40 (2) a limited or probationary license, certificate, or
41 registration;
- 42 (3) a temporary license, certificate, registration, or permit;



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(4) an intern permit; or
 (5) a provisional license.

Sec. 5. (a) As used in this chapter, except as provided in subsection (b), "practitioner" means an individual who holds a license issued by a board described in IC 25-0.5-11, including a certificate of registration issued under IC 25-20.

(b) The term does not include a veterinarian licensed under IC 25-38.1.

Sec. 6. (a) As used in this chapter, "type of license" means the name or title of the profession of which a practitioner is a member, as displayed on the license issued to the practitioner by the board described in IC 25-0.5-11 that issued the practitioner's license.

(b) The term does not include a reference to or an acronym solely associated with the educational degree or qualifications of an individual licensed by a board described in IC 25-0.5-11 unless the reference or acronym is otherwise allowed for use by individuals licensed by the board under the governing statutes and rules.

Sec. 7. (a) An advertisement that includes a practitioner's name must prominently state the type of license held by the practitioner.

(b) A written advertisement that includes a practitioner's name must prominently set forth the type of license held by the practitioner in a font size and style that makes the information readily apparent to the reader.

(c) An advertisement must not include any deceptive or misleading information.

(d) A practitioner who communicates or disseminates to the general public an advertisement that violates this section is subject to disciplinary sanctions under IC 25-1-9 by the board that issued the practitioner's license.

SECTION 2. IC 25-22.5-1-1.1, AS AMENDED BY P.L.28-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1.1. As used in this article:

(a) "Practice of medicine or osteopathic medicine" means any one (1) or a combination of the following:

- (1) Holding oneself out to the public as being engaged in:**
 - (A) the diagnosis, treatment, correction, or prevention of any disease, ailment, defect, injury, infirmity, deformity, pain, or other condition of human beings;**
 - (B) the suggestion, recommendation, or prescription or administration of any form of treatment, without limitation;**
 - (C) the performing of any kind of surgical operation upon a human being, including tattooing (except for providing a tattoo**



- 1 as defined in IC 35-45-21-4(a)), in which human tissue is cut,
 2 burned, or vaporized by the use of any mechanical means,
 3 laser, or ionizing radiation, or the penetration of the skin or
 4 body orifice by any means, for the intended palliation, relief,
 5 or cure; or
 6 (D) the prevention of any physical, mental, or functional
 7 ailment or defect of any person.
- 8 (2) The maintenance of an office or a place of business for the
 9 reception, examination, or treatment of persons suffering from
 10 disease, ailment, defect, injury, infirmity, deformity, pain, or other
 11 conditions of body or mind.
- 12 (3) Attaching the designation "doctor of medicine", "M.D.",
 13 "doctor of osteopathy", "D.O.", "osteopathic medical physician",
 14 "physician", "surgeon", or "physician and surgeon"; to a name,
 15 either alone or in connection with other words, **the designation**
 16 **or term:**
- 17 (A) "doctor of medicine";
 - 18 (B) "M.D.";
 - 19 (C) "doctor of osteopathy";
 - 20 (D) "D.O.";
 - 21 (E) "physician";
 - 22 (F) "osteopath";
 - 23 (G) "osteopathic medical physician";
 - 24 (H) "surgeon";
 - 25 (I) "physician and surgeon";
 - 26 (J) "anesthesiologist";
 - 27 (K) "cardiologist";
 - 28 (L) "dermatologist";
 - 29 (M) "endocrinologist";
 - 30 (N) "gastroenterologist";
 - 31 (O) "gynecologist";
 - 32 (P) "hematologist";
 - 33 (Q) "internist";
 - 34 (R) "laryngologist";
 - 35 (S) "nephrologist";
 - 36 (T) "neurologist";
 - 37 (U) "obstetrician";
 - 38 (V) "oncologist";
 - 39 (W) "ophthalmologist";
 - 40 (X) "orthopedic surgeon";
 - 41 (Y) "orthopedist";
 - 42 (Z) "otologist";



- 1 (AA) "otolaryngologist";
 2 (BB) "otorhinolaryngologist";
 3 (CC) "pathologist";
 4 (DD) "pediatrician";
 5 (EE) "primary care physician";
 6 (FF) "proctologist";
 7 (GG) "psychiatrist";
 8 (HH) "radiologist";
 9 (II) "rheumatologist";
 10 (JJ) "rhinologist";
 11 (KK) "urologist";
 12 (LL) "medical doctor";
 13 (MM) "family practice physician"; or
 14 (NN) "physiatrist".

15 **This subdivision does not prevent a practitioner from using**
 16 **the name or title of the practitioner's profession that is**
 17 **allowed under the practitioner's practice act.**

18 or any other words or abbreviations to a name, indicating or
 19 inducing others to believe that the person is engaged in the
 20 practice of medicine or osteopathic medicine. (as defined in this
 21 section):

22 (4) Providing diagnostic or treatment services to a person in
 23 Indiana when the diagnostic or treatment services:

- 24 (A) are transmitted through electronic communications; and
 25 (B) are on a regular, routine, and nonepisodic basis or under
 26 an oral or written agreement to regularly provide medical
 27 services.

28 In addition to the exceptions described in section 2 of this chapter,
 29 a nonresident physician who is located outside Indiana does not
 30 practice medicine or osteopathy in Indiana by providing a second
 31 opinion to a licensee or diagnostic or treatment services to a
 32 patient in Indiana following medical care originally provided to
 33 the patient while outside Indiana.

34 (b) "Board" refers to the medical licensing board of Indiana.

35 (c) "Diagnose or diagnosis" means to examine a patient, parts of a
 36 patient's body, substances taken or removed from a patient's body, or
 37 materials produced by a patient's body to determine the source or
 38 nature of a disease or other physical or mental condition, or to hold
 39 oneself out or represent that a person is a physician and is so examining
 40 a patient. It is not necessary that the examination be made in the
 41 presence of the patient; it may be made on information supplied either
 42 directly or indirectly by the patient.



1 (d) "Drug or medicine" means any medicine, compound, or
2 chemical or biological preparation intended for internal or external use
3 of humans, and all substances intended to be used for the diagnosis,
4 cure, mitigation, or prevention of diseases or abnormalities of humans,
5 which are recognized in the latest editions published of the United
6 States Pharmacopoeia or National Formulary, or otherwise established
7 as a drug or medicine.

8 (e) "Licensee" means any individual holding a valid unlimited
9 license issued by the board under this article.

10 (f) "Prescribe or prescription" means to direct, order, or designate
11 the use of or manner of using a drug, medicine, or treatment, by spoken
12 or written words or other means and in accordance with IC 25-1-9.3.

13 (g) "Physician" means any person who holds the degree of doctor of
14 medicine or doctor of osteopathy or its equivalent and who holds a
15 valid unlimited license to practice medicine or osteopathic medicine in
16 Indiana.

17 (h) "Medical school" means a nationally accredited college of
18 medicine or of osteopathic medicine approved by the board.

19 (i) "Physician assistant" means an individual who:

20 (1) is supervised by a physician;

21 (2) graduated from an approved physician assistant program
22 described in IC 25-27.5-2-2;

23 (3) passed the examination administered by the National
24 Commission on Certification of Physician Assistants (NCCPA)
25 and maintains certification; and

26 (4) has been licensed by the physician assistant committee under
27 IC 25-27.5.

28 (j) "Agency" refers to the Indiana professional licensing agency
29 under IC 25-1-5.

30 (k) "INSPECT program" means the Indiana scheduled prescription
31 electronic collection and tracking program established by IC 25-1-13-4.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 239, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, after "." insert "**However, an advertisement that was prepared or created before January 1, 2023, may not be disseminated after December 31, 2022, unless the advertisement complies with the requirements set forth in section 7 of this chapter.**".

Page 2, between lines 14 and 15, begin a new line block indented and insert:

"(13) A newspaper or magazine."

Page 2, line 15, delete "(13)" and insert "**(14)**".

Page 2, line 20, delete "signage." and insert "**signage that was in place before January 1, 2023.**".

Page 3, delete lines 7 through 9.

Page 3, line 10, delete "(c)" and insert "**(b)**".

Page 3, delete lines 27 through 42.

Delete page 4.

Page 5, delete lines 1 through 4.

Page 6, delete line 6.

Page 6, line 7, delete "(P)" and insert "**(O)**".

Page 6, line 8, delete "(Q)" and insert "**(P)**".

Page 6, line 9, delete "(R)" and insert "**(Q)**".

Page 6, line 10, delete "(S)" and insert "**(R)**".

Page 6, line 11, delete "(T)" and insert "**(S)**".

Page 6, line 12, delete "(U)" and insert "**(T)**".

Page 6, line 13, delete "(V)" and insert "**(U)**".

Page 6, line 14, delete "(W)" and insert "**(V)**".

Page 6, line 15, delete "(X)" and insert "**(W)**".

Page 6, line 16, delete "(Y)" and insert "**(X)**".

Page 6, line 17, delete "(Z)" and insert "**(Y)**".

Page 6, line 18, delete "(AA)" and insert "**(Z)**".

Page 6, line 19, delete "(BB)" and insert "**(AA)**".

Page 6, line 20, delete "(CC)" and insert "**(BB)**".

Page 6, line 21, delete "(DD)" and insert "**(CC)**".

Page 6, line 22, delete "(EE)" and insert "**(DD)**".

Page 6, line 23, delete "(FF)" and insert "**(EE)**".

Page 6, line 24, delete "(GG)" and insert "**(FF)**".



Page 6, line 25, delete "(HH)" and insert "(GG)".

Page 6, line 26, delete "(II)" and insert "(HH)".

Page 6, line 27, delete "(JJ)" and insert "(II)".

Page 6, line 28, delete "(KK)" and insert "(JJ)".

Page 6, line 29, delete "(LL)" and insert "(KK)".

Page 6, line 29, delete "or".

Page 6, delete line 30, begin a new line double block indented and insert:

"(LL) "medical doctor";

(MM) "family practice physician"; or

(NN) "physiatrist".

This subdivision does not prevent a practitioner from using the name or title of the practitioner's profession that is allowed under the practitioner's practice act."

Page 6, strike line 31.

Page 6, line 32, strike "inducing others to believe that the".

Page 6, line 32, delete "named".

Page 6, line 32, strike "person is engaged in"

Page 6, strike line 33.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 239 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 1.

