SENATE DOCKET, NO. 390 FILED ON: 1/16/2013

# SENATE . . . . . No. 1035

## The Commonwealth of Massachusetts

PRESENTED BY:

***Thomas P. Kennedy***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to truth in advertising.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Thomas P. Kennedy* | *Second Plymouth and Bristol* |
| *William Smitty Pignatelli* | *4th Berkshire* |

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# SENATE . . . . . No. 1035

By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 1035) of Thomas P. Kennedy and William Smitty Pignatelli for legislation relative to truth in advertising. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1113* OF 2011-2012.]

## The Commonwealth of Massachusetts

**In the Year Two Thousand Thirteen**

An Act relative to truth in advertising.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Section 1. Chapter 112 is hereby amended by adding the following new sections:

For the purposes of this section:

"Advertisement" any communication or statement, whether printed, electronic, or oral that names the health care practitioner in relation to his or her practice, profession, or institution in which the individual is employed, volunteers or otherwise provides health care services. This includes business cards, letterhead, patient brochures, email, Internet, audio and video, and any other communication or statement used in the course of business.

"Deceptive" or "misleading" includes, but is not limited to, any advertisement or affirmative communication or representation that mis-states, falsely describes, holds out or falsely details the health care practitioner's profession, skills, training, expertise, education, board certification or licensure.

"Health care practitioner" any person who engages in acts that are the subject of licensure or regulation.

"Licensee" a health care practitioner who holds an active license with the licensing board governing his or her practice in the Commonwealth.

16 (a) An advertisement for health care services that names a health care practitioner must
17 identify the type of license held pursuant to the definitions under this act. The advertisement
18 shall be free from any and all deceptive and misleading information.

19 (b) A health care practitioner providing health care services in the Commonwealth must
20 conspicuously post and affirmatively communicate the practitioner's specific licensure as
21 defined under this act. This shall consist of the following:

22 1. The health care practitioner shall were a photo identification name tag during
23 all patient encounters that shall include (i) a recent photograph of the practitioner (ii) the
24 practitoner's name; (iii) the type of license; and (iv) the expiration date of the license. The name
25 tag shall be of sufficient size and be worn in a conspicuous manner so as to be visible and
26 apparent.

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

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

32 (d) A medical doctor or doctor of osteopathic medicine who supervises or participates in
33 collaborative practice agreements with non-medical doctors or non-doctors of osteopathic
34 medicine health care practitioners shall be required to conspicuously post in each office a
35 schedule of the regular hours when he or she will be present at that office.

36 (e) Health care practitioners working in non-patient care settings, and who do not have
37 any direct patient care interactions, are not subject to the provisions of this act.

38 (f) Failure to comply with any provision under this section shall constitute a violation of
39 this act and Chapter 93A of the general laws.