

HOUSE No. 4812

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 26, 2022.

The committee on Public Health to whom was referred the petition (accompanied by bill, House, No. 2240) of Gerard J. Cassidy relative to truth in advertising by certain health care practitioners, and the petition (accompanied by bill, House, No. 2241) of Gerard J. Cassidy relative to the use of the term physician, reports recommending that the accompanying bill (House, No. 4812) ought to pass.

For the committee,

MARJORIE C. DECKER.

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to health care transparency.

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

1 SECTION 1. Chapter 112 of the General Laws is hereby amended by striking out section
2 8A and inserting in place thereof the following section:-

3 Section 8A. No person may, directly or indirectly, use the title "physician" or display or
4 use the term physician in any title, advertisement, listing of affiliations, communication with the
5 public or in any other manner to indicate or imply in any way that such person offers to engage
6 or engages in the practice of medicine or in the provision of health care services to patients
7 within the commonwealth who is not registered by the board of registration in medicine as a
8 physician under section 2, nor use or imply the use of the words or terms "surgeon," "medical
9 doctor," "doctor of osteopathy," "M.D.," "anesthesiologist," "cardiologist," "dermatologist,"
10 "endocrinologist," "gastroenterologist," "general practitioner," "gynecologist," "hematologist,"
11 "internist," "laryngologist," "nephrologist," "neurologist," "obstetrician," "oncologist,"
12 "ophthalmologist," "orthopedic surgeon," "orthopedist," "osteopath," "otologist,"
13 "otolaryngologist," "otolaryngologist," "pathologist," "pediatrician," "primary care physician,"
14 "proctologist," "psychiatrist," "radiologist," "rheumatologist," "rhinologist," "urologist," or any

15 similar title or description of services with the intent to represent that the person practices
16 medicine. This section shall not apply to use of the term "chiropractic physician" by individuals
17 licensed and practicing under sections 89 to 97, inclusive, or the use of the term "podiatric
18 physician" by individuals licensed and practicing under sections 13 to 22, inclusive, or the use of
19 the term "physician assistant" by individuals licensed and practicing under sections 9C to 9K,
20 inclusive. A person who violates this section shall be punished by a fine of not less than \$100
21 and not more than \$1,000 or by imprisonment for not less than 30 days and not more than 1 year
22 in the house of corrections, or by both such fine and imprisonment.

23 SECTION 2. Said chapter 112 is hereby further amended by adding the following
24 section:-

25 Section 290. (a) For the purposes of this section, the following terms shall have the
26 following meanings:

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

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

36 “Health care practitioner”, any person who engages in acts that are the subject of
37 licensure or regulation.

38 “Licensee”, a health care practitioner who holds an active license with the licensing board
39 governing his or her practice in the Commonwealth.

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

43 (c) A health care practitioner providing health care services in the Commonwealth must
44 conspicuously post and affirmatively communicate the practitioner’s specific licensure as
45 defined under this chapter, which shall consist of the following:

46 1. The health care practitioner shall wear a photo identification name tag during all
47 patient encounters that shall include (i) a recent photograph of the practitioner (ii) the
48 practitioner’s name; (iii) the type of license; and (iv) the expiration date of the license. The name
49 tag shall be of sufficient size and be worn in a conspicuous manner so as to be visible and
50 apparent.

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

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

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

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

62 (g) Failure to comply with any provision under this section shall constitute a violation of
63 this section and chapter 93A.