

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO HEALTH CARE PRACTITIONERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 436B, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           **"PART . HEALTH CARE PROFESSIONAL TRANSPARENCY**

5           **§436B-A Definitions.** As used in this part:

6           "Advertisement" means any communication or statement,  
7 whether printed, electronic, or oral, that names the health care  
8 practitioner in relation to the health care practitioner's  
9 practice, profession, or institution in which the health care  
10 practitioner is employed, volunteers, or otherwise provides  
11 health care services, including business cards, letterhead,  
12 patient brochures, electronic mail, internet communications,  
13 audio and video, and any other communication or statement used  
14 in the course of business.

15           "Deceptive or misleading information" includes but is not  
16 limited to any advertisement or affirmative communication or  
17 representation that misstates, falsely describes, falsely holds



1 out, or falsely details the health care practitioner's  
2 profession, skills, training, expertise, education, board  
3 certification, or licensure.

4 "Health care practitioner" includes:

- 5 (1) Acupuncture practitioners licensed under chapter 436E;
- 6 (2) Chiropractors licensed under chapter 442;
- 7 (3) Dental hygienists licensed under chapter 447;
- 8 (4) Dentists licensed under chapter 448;
- 9 (5) Physicians, surgeons, and physician assistants  
10 licensed under chapter 453;
- 11 (6) Naturopaths licensed under chapter 455;
- 12 (7) Nurses licensed under chapter 457;
- 13 (8) Nurse aides licensed under chapter 457A;
- 14 (9) Optometrists licensed under chapter 459;
- 15 (10) Pharmacists licensed under chapter 461;
- 16 (11) Physical therapists licensed under chapter 461J;
- 17 (12) Podiatrists licensed under chapter 463E;
- 18 (13) Psychologists licensed under chapter 465;
- 19 (14) Behavior analysts licensed under chapter 465D;
- 20 (15) Respiratory therapists licensed under chapter 466D;



1 (16) Speech pathologists and audiologists licensed under  
2 chapter 468E; and

3 (17) Any other person who provides health care services  
4 subject to certification or licensure.

5 **§436B-B Requirements.** (a) An advertisement for health  
6 care services that names a health care practitioner shall  
7 identify the type of license held by that health care  
8 practitioner. The advertisement shall not contain any deceptive  
9 or misleading information.

10 (b) Any health care practitioner providing health care  
11 services shall conspicuously post and affirmatively communicate  
12 that health care practitioner's specific licensure as follows:

13 (1) The health care practitioner shall wear a photo  
14 identification name tag during all patient  
15 interactions that shall include:

16 (A) A recent photograph of the health care  
17 practitioner;

18 (B) The health care practitioner's name;

19 (C) The type of license held by the health care  
20 practitioner; and

21 (D) The expiration date of the license; and



1           (2) The health care practitioner shall display in the  
2           health care practitioner's office a writing that  
3           clearly identifies the type of license held by the  
4           health care practitioner, which shall be of sufficient  
5           size to be visible and apparent to all current and  
6           prospective patients.

7           (c) A medical doctor or doctor of osteopathic medicine who  
8           supervises or participates in collaborative practice agreements  
9           with non-M.D. or non-D.O. health care practitioners shall  
10          conspicuously post in each practice setting a schedule of the  
11          regular hours when the medical doctor or doctor of osteopathic  
12          medicine will be present in that location.

13          (d) A health care practitioner who practices in more than  
14          one location shall comply with the requirements of this section  
15          in each practice setting.

16          (e) Health care practitioners working in non-patient care  
17          settings, and who do not participate in direct patient care  
18          interactions, shall not be subject to the requirements of this  
19          section.

20          **§436B-C Aiding or facilitating unlicensed practice of**  
21          **health care; prohibition.** (a) No health care practitioner



1 shall knowingly aid, assist, procure, employ, or advise any  
2 unlicensed person or entity to practice or engage in acts  
3 contrary to the health care practitioner's degree of licensure.

4 (b) No health care practitioner shall delegate or contract  
5 for the performance of health care services by a person that the  
6 health care practitioner knows, or has reason to know, does not  
7 have the required authority pursuant to the person's licensure  
8 to perform such services.

9 **§436B-D Enforcement.** (a) Any health care practitioner  
10 who violates section 436B-B or 436B-C shall be guilty of  
11 unprofessional conduct and subject to disciplinary action under  
12 the appropriate licensure provisions governing the respective  
13 health care practitioner.

14 (b) Each day of violation of section 436B-B or 436B-C  
15 shall constitute a separate offense and shall be punishable as  
16 such.

17 (c) Any fees and amounts billed to and paid by the patient  
18 for services performed in violation of section 436B-B or 436B-C,  
19 including moneys paid to third parties contracted to collect  
20 fees on behalf of the health care practitioner, the health care  
21 practitioner's employer, or any other entity contracting with



1 the health care practitioner, shall be effectively rescinded and  
2 refunded.

3 (d) Professional sanctions, administrative fees, or other  
4 disciplinary actions imposed under this section shall be  
5 publicly reported in a journal of official record.

6 (e) Notwithstanding the imposition of any penalty under  
7 this section, a professional licensing board or other  
8 administrative agency with jurisdiction may seek an injunction  
9 or other legal means as appropriate against a person or entity  
10 violating section 436B-B or 436B-C."

11 SECTION 2. If any provision of this Act, or the  
12 application thereof to any person or circumstance, is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act that can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: John M. ...  
... D.C. ...



# S.B. NO. 726

**Report Title:**

Health Care Practitioners; Truth in Advertising Campaign;  
American Medical Association; Doctors

**Description:**

Requires health care providers to conspicuously post and communicate their specific type of licensure in their offices, communicate that information to patients in their practices, and include that information in their advertising. Imposes penalties for licensed health care providers who include deceptive or misleading information about their qualifications in their advertising, or misrepresent their qualifications to patients.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

